


MEMORANDUM

TO: Elk Rapids Township Planning Commission
FROM: Larry Nix, PCP Consulting 
DATE: December 2, 2024
RE: Birch Lake Setback and other Considerations

As a follow up to the October 8, 2024, memo regarding Birch Lake Setback Suggestions and after discussion with the Planning Commission, it was suggested setbacks adjacent to the southern side of Birch Lake on existing non-conforming lots be considered for adjustment as follows:

Front Yard Setback:	35' A measurement from the roadside property line to the front line of the building/structure or any projection.
Side Yard Setback:	10' A measurement from the side property line to the line of the building/structure or any projection.
Waterside Setback:	30' A measurement from the high water mark to the line of the building/structure or any projection.

These adjustments are being suggested based on the limited lot depth for the vast majority of lots on the south end of Birch Lake and the frequency of variances granted over the past 35 years in this area by the Zoning Board of Appeals. It is sound planning practice to adjust the zoning rules when it is determined by the granting of variances, the rules are not practical for an area.

The area adjacent to Birch Lake is currently zoned R-1 Residential. The setback and lot size standards are as follows:

Front Yard Setback:	50'
Side Yard Setback:	10'
Waterside Setback:	50'
Minimum Lot Size:	20,000 Square Feet

The minimum size of a house in Elk Rapids Township is 960 square feet. This is basically a square of 31'x31'. A reasonable depth to a house for construction purposes is 30'. We have all seen them larger and smaller, but a depth of 30' is very functional. Given the existing setback standards as noted above, a lot less than 130' in depth would require a variance from the Zoning Board of Appeals to be built upon, remodeled or expanded. The suggested new setback of 35' and 30" would allow a lot with a depth of 100' to have a home with a depth of 35' with a strong chance to avoid the timely and costly process of applying for a variance. Even though the majority of variances were granted over time, the process is still stressful for the applicant.

Following is a chart of lot characteristics that are adjacent to the south side of Birch Lake. This area spans from the west at Williams Dr and Timberlake Drive to the east at the north end of Williams Court. There are a total of 58 properties in private ownership adjacent to Birch Lake in this area. Two properties area in Township ownership. These two lots are not part of this analysis since they are not building sites.

Number of Lots	Lot Parameter	% of Total
1	Lot less that 50' wide	1.7%
28	Lots at 50' width	48.3%
15	Lots between 51-99' wide	25.9%
12	Lots Between 100-150' wide	20.7%
2	Lots greater than 150'wide	3.4%
58	Total Number of Lots	100.0%
2	Lots Less than 100' Deep	3.4%
50	Lots Between 100'-130' Deep	86.2%
6	Lots Greater than 130' Deep	10.3%
58	Total Number of Lots	100.0%

As can be seen from the chart above, 96.5% of the lots (56 lots) have a depth of greater than 100' and only 3.4% or 2 lots have a depth of less than 100'. This means there is a great potential of minimizing the number of variance requests due to front and waterside setback standards.

Lot width is not normally a problem to achieve a 30' wide building width. Of the 58 total lots, only 1 lot has a width of less than 50'. In the majority of instances, the adjustments suggested will yield a building envelope of over 1,000 square feet in area, with the potential of a 2 level house of 2,000 square feet in area. These suggested setbacks are consistent with the actions of the Zoning Board of Appeals in granting variances to accommodate reasonable requests for many decades.

The public input session scheduled for December 9, 2024, may reveal other ideas or concerns we have not discussed to date. Consideration of these comments will be valuable.

Water Setback Definition

A question was asked at our last Planning Commission meeting regarding the definition of the mean high water mark as used in establishing a common standard for the water line setback as used adjacent to Birch, Bass and Elk Lake. The following definition is contained in our Zoning Ordinance and has been used to establish the waterside setback since the Zoning Ordinance was adopted.

Definition: Ordinary High Water Mark

1. For Inland Lakes - The line between upland and bottomland which persists through successive changes in water levels below which the presence and action of the water is so common or recurrent

that the character of the land is marked distinctly from the upland, and is apparent in the soil itself, the configuration of the surface of the soil and the vegetation. On an inland lake which has a level established by law it means the high established level. Where water returns to its natural level as the result of the permanent removal or abandonment of a dam, it means the natural ordinary high water mark.

2. For East Arm of the Grand Traverse Bay - The average Ordinary High Watermark for the East Arm of the Grand Traverse Bay shall be the Ordinary High Watermark (OHW) elevation, I.G.L.D. 1985 (International Great Lakes Datum).

This definition has served the Township well since it was established in the Zoning Ordinance. If there is a need to refine or improve this definition, we should discuss this topic.

Options for Incorporating the Setback Standards into the Zoning Ordinance

There are three ways to incorporate the suggested setback standards into the Zoning Ordinance. It is also noted that the only change suggested for the lots on the south side of Birch Lake is a modification of the required setback standards. Regulations concerning wetlands, tree removal, soil erosion, etc. are not being suggested for modification and will remain in effect as usual.

1. Create a new Zoning District (Zone) similar to the R-1 Zone but modify the setback standards for the south side of Birch Lake. This would involve a text and map amendment.
2. Create an Overlay District in the R-1 District specific to the south side of Birch Lake as discussed in this memo. This overlay would cause an amendment to the text and the zoning map.
3. Create a text amendment within the existing R-1 District specific to the subdivisions and/or legal descriptions of the lots subject to the modification of setback standards and state the new setback standards for this area.

Accessory Buildings

The October 8, 2024, memo also discussed the size the placement standards for a detached accessory building. It was suggested to consider permitting an accessory building not to exceed 120 square feet in area and a height of not more than 12' to the peak be permitted in the front yard with a front yard setback of 15' and a side yard of 8'.

Conclusion

We have many items to discuss on Monday, December 9, 2024, at the next Planning Commission meeting. Since a special invitation has been sent to the public on the Birch Lake setback regulations, I will be prepared to make a brief presentation on this topic to provide the public with a foundation as to the purpose of these suggestions and a basis for comments. After the public input process, the Planning Commission discussion will provide direction as to our next steps.