

**Elk Rapids Township Planning Commission Meeting
Meeting Minutes – October 12, 2021**

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

Present: Shen Smith, Emile Sabty, Jim Lundy, Zach Amos, Gary Pepler, and Tom Crandall. **(Quorum Established)**

Absent: Matt Soper.

Also Present: William Derman, Township Attorney and Larry Nix, Zoning Administrator.

Audience: Jim Muth, Aaron Edel, Mike & Janet Manzardo, Sam Castronovo, and Bill Holland.

Adoption of Agenda: **Motion to approve the October 12, 2021 Agenda.**
MOTION/S Lundy/Peppler **Motion Unanimously Carried.**

Public Comments: None.

Approval of Minutes: **Motion to approve the April 13, 2021 meeting minutes.**
MOTION/S Lundy/Crandall **Motion Unanimously Carried.**

Open Public Hearing: **Motion to Open Public Hearing.**
MOTION/S Lundy/Peppler **Motion Unanimously Carried.**

Site Plan Review Hearing – Under consideration is a request for a Site Plan Review Hearing from property owner Renate Daniels, P.O. Box 2, Alto, NM 88312, Tax ID# 05-06-016-012-60. The request is for R-1 Zoned 50 ft Front Yard/Shoreline Renovation to level the lake side steep sloped front yard, add gravel, sand, top soil and rocks to reinforce the water edge consistent with the provisions of Section 2.11 of the Elk Rapids Township Zoning Ordinance.

A summary of the Daniels Site Plan Review discussion follows:

- Applicant was not in attendance but could be reached via phone if necessary.
- Zoning Administrator noted the property is located at 8615 Partridge Trail.
- The applicant plans to build a home on this property at some point in the future.
- The applicant desires to alter the shoreline by placing boulders adjacent to the water's edge and backfill the first 25' with sand, gravel and topsoil up to where the building pad is located. She also states she wants to put native plants in this area.
- It was noted that a cedar tree with 3 stems had been cutdown and is a violation that will be addressed separately by the Zoning Administrator.
- It was noted that Heidi Shaffer, Antrim County Soil Erosion Officer has not had any interaction with the applicant regarding this shoreline modification.
- Renate Daniels purchased this property in July 2021 and is the third property owner.
- The previous property owner received an EGLE permit (April 6, 2018) to install a driveway and building pad for the house. However, the driveway was only permitted to go to the edge of the building pad. (86' from the water). The existing driveway goes all the way down to the lake and is in violation of the EGLE permit.

- Upon closer evaluation of the property, it was noted a geofabric has also been installed under the sand next to the water. This is also unauthorized by the original EGLE permit.
- Zoning Administrator Nix will notify Soil Erosion Officer Heidi Shaffer and EGLE of these violations as well as the unauthorized fill on the property.
- It was further noted that a number of trees had been removed from the property. The timing of the tree removal and who removed them, is uncertain.
- Mr. Sabty reported that the property located at 8617 Partridge Trail has boulders along the shoreline and is leveled all the way back very similar to what the applicant is requesting. Mr. Sabty suggested the Board table the request until the applicant obtains the appropriate approvals rather than deny it.

Zoning Administrator Nix recommended the Planning Commission not approve this project as submitted and that the application be denied for the following reasons:

1. The applicant has not consulted the Antrim County Soil Erosion Officer regarding this project nor obtained a permit.
2. The natural vegetation in the Protection Zone needs to be permitted to be re-established.
3. The tree cut down on the site in the Protection Zone needs to be replaced as per Township policy.

**Close Public Hearing:
Motion/S Lundy/Amos**

**Motion to Close the Public Hearing.
Motion Unanimously Carried.**

**Motion to Deny:
M/S Lundy/Peppler**

Motion to deny Renate Daniels Site Plan Review request for shoreline renovation as submitted for the following reasons:

1. The applicant has not consulted the Antrim County Soil Erosion Officer regarding this project nor obtained a permit.
2. The natural vegetation in the Protection Zone needs to be permitted to be re-established.
3. The tree cut down on the site in the Protection Zone needs to be replaced as per Township policy.
4. The applicant needs to obtain the appropriate approval and permits from the Antrim County Soil Erosion Officer and EGLE. The existing EGLE violations will also need to be addressed and rectified before the applicant comes back to the Planning Commission.

Zoning Administrator Nix will contact the applicant regarding the Commission's decision. He will also notify Heidi Shaffer and EGLE regarding the need for further investigation of the violations found on this property. A copy of the application and the Planning Commission comments will also be provided.

MOTION TO DENY CARRIED.

Township Zoning Administrator Report (Larry Nix):

- The unfinished discussion regarding duplex sites in agricultural zones is tabled until another meeting.

- Mr. Nix reported it has been a busy summer addressing and dealing with a number of zoning ordinance violations within the Township.
- Administrator Nix introduced Jim Muth, President of the Birch Lake Association. He noted about fifty trees were cut down on Birch Lake and Mr. Muth will be addressing the Planning Commission encouraging the Commission to take tree removal enforcement to a different level. Mr. Nix further reported tree removal on lakefront property has increased and it is very difficult to keep chasing after violators after they have cut down trees.

Township Legal Staff Report (Bill Derman):

- Mr. Derman reported because of the increased number of homeowners clear cutting their lots, the Township Board is giving him and Zoning Administrator Nix the authority to work together and draft up a memo that addresses tree cutting and unauthorized structures. This notice will be put in the Elk Rapids News, posted on the Township website and will also be included in the winter tax bill. In addition, when a new property deed is recorded and there is a property transfer affidavit, the Assessor will provide the name and address of the new owner. This notice will be mailed directly to them. The Township plans to provide this information ahead of time and put new property owners on notice that they need to contact the Township before cutting down trees or putting up a structure.

Unfinished Business: None.

New Business: Presentation by Jim Muth, President of Birch Lake Association.

Mr. Muth gave a detailed slide presentation to the Planning Commission addressing the decimation and excessive illegal removal of trees on Birch Lake. A summary of his concerns and recommendations as well as input from the Planning Commission and audience members follows:

- The suburbanization of northern Michigan lakefront lots.
- The decimation of the shoreline.
- The disregard for Zoning Ordinance 2.11.
- The lack of consistent and meaningful enforcement to violators.
- A Timberlake Drive lot recently completely clear-cut their lot. Approximately 50 trees were removed from this one lot. A buffer of cedar trees along the shoreline were illegally removed. The average age of these cedar trees was 125 years old.
- Large white pines were also removed – Home to two eagles.
- General disregard by new property owners and tree service companies to retain trees on waterfront property.
- Homeowners in violation removing more than 30% of the trees on their lot and removing trees within the 25' protection zone.
- Trees on the Timberlake Drive lot were pulled/ripped out of the ground with their roots so there is no evidence a tree was there. Stumps, shrubs and bushes were also removed.
- Birch Lake Association recommends the Planning Commission consider creating an Antrim County Lakeside Outreach group with other Townships that have waterfront shorelines who are also battling this problem.
- Create one unified County Ordinance.
- Create a cost value formula that can be applied universally.
- Consider violation fines based upon the size of the tree, that are split between the property owner and the tree removal company. Holding both parties responsible.
- Trees along the shoreline are critical to the quality and clarity of the water.

- Lake water quality will never be restored unless there is a plan in place to promote and protect the shoreline.
- Many homeowners are doing everything they can to save trees on their waterfront properties. They have invested a lot of money in preserving their trees. They now need the Township to step in and help them maintain the lake water quality by prosecuting tree cutting violators.
- The Township needs to take a hard line against violators who break the law and remove trees.
- The Township needs to make sure stricter rules on tree removal is enforceable and heftier fines are collectible.
- The Association recommended the Township not issue a land use permit if a property owner violates the Zoning Ordinance until restoration takes place.
- The Association also suggested that the County not issue a building permit to violators until the property is restored.
- The Commission was cautioned to be sensitive to personal property rights and to research what is allowable and what is enforceable.
- It was also noted that the Township can only address property owners. It was uncertain if the Township can fine tree removal companies.
- There are many different ways to address the replanting of tree to get the attention of violators. The Township needs to research all the possibilities to determine what is the right fit.

Conclusion:

The Planning Commission agreed something needs to be done to protect the lakes and shorelines within the Township. The Commission asked Zoning Administrator Larry Nix and Township Attorney Bill Derman to work with Jim Muth, President of Birch Lake Association to form a committee to work on stronger Zoning Ordinance language and regulations that address tree removal. The Commission encouraged the committee to make this a priority project and to research what is legally enforceable and collectible.

New Business – (Continued)

Chairperson Smith stated she is canceling the Workforce Housing joint meeting with the Village at this time so the Planning Commission can focus on the preservation of the lakes and address the tree cutting issue within the Township.

Adjournment:

MOTION/S Lundy/Amos

**MOTION TO ADJOURN.
MOTION CARRIED.**

Meeting Adjourned at 7:58 PM

(Final Meeting draft as of 10/14/21 – 1:30 PM)