

**Elk Rapids Township Planning Commission Meeting
Meeting Minutes – March 8, 2022**

The meeting of the Elk Rapids Township Planning Commission was called to order by Chairperson Shen Smith at 6:50 PM at the Government Center, 315 Bridge Street, Elk Rapids, MI 49629.

Present: Shen Smith, Emile Sabty, Jim Lundy, Zach Amos.
(Quorum Established)

Absent: Gary Pepler, Tom Crandall, Matt Soper,

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

Audience: Jeffrey & Ruth Martin, Heidi Shaffer, Antrim County Soil Erosion Officer, Marshall Wright, Terry Bertrand, Owner Barker Creek Nursery.

Adoption of Agenda: **Motion to approve the March 8, 2022 Agenda.**
MOTION/S – Lundy/Amos **Motion Carried.**

Public Comments: None.

Approval of Minutes: **Motion to approve the December 14, 2021 meeting minutes.**
MOTION/S – Lundy/Amos **Motion Carried.**

Open Public Hearing: **Motion to Open Public Hearing.**
MOTION/S – Lundy/Sabty **Motion Carried.**

Site Plan Review Hearing – Chairperson Smith opened the public hearing. Under consideration is a request for a site plan review from Jeff & Ruth Martin, owners of Lot 35 Birch Lake Subdivision, located between lots 6501 & 6473 on Timber Lake Drive, Elk Rapids, Michigan 49629. Property tax number 05-06-225-035-00. Neither the Township Zoning Administrator, nor the Antrim County Soil & Erosion Officer was consulted before Lot 35 was all but denuded of trees and vegetation. As the stumps were removed from the 25-foot protection area there were likely more trees illegally removed than this review is currently addressing, but 17 trees were identified as being removed from the 25-foot strip along the Birch Lake shoreline in violation of restrictions and conditions outlined in the Elk Rapids Township Zoning Ordinance – Section 2.11B. The purpose of this review is to consider and approve a remediation plan with corrective actions to return at least 17 (or more) trees to the 25-foot protection area located on Lot 35 of the Birch Lake Subdivision

Zoning Administrator Larry Nix provided a summary of the tree removal violation history and the communication between the Township and the Martins. Mr. Nix referenced his memo/report dated February 18, 2022 regarding the Martin Tree Replacement Site Plan.

A summary of the Martin Site Plan Review discussion follows:

- To be compliant with the letter of violation sent to the Martins in October 2021, the Martins have agreed to and submitted a remediation plan with corrective actions to replant 18 trees and 2 shrubs in the 25' protection area located on Lot 35 of the Birch Lake Subdivision.

- A copy of the site plan with quantity, tree types, and proposed plant materials was provided to and reviewed by the members of the Planning Commission.
- The 12 River Birch trees being planted by the Martins must have 3 stems.
- The consideration of a financial performance guarantee was discussed.
- The Martins want to obtain a zoning permit to begin construction of their new home, however, it was noted a zoning permit cannot be issued until the violation is resolved.
- The Board discussed a copy of a letter received from Jim Muth, President, Birch Lake Association dated February 22, 2022, asking the Martins to consider some changes to their landscaping plans.
- Terry Bertrand, Owner of Barker Creek Nursery addressed the Planning Commission with a detailed report on the Martin's landscape plan. Mr. Bertrand assured the Board all species of the trees and shrubs selected are native to the area and will not only enhance the shoreline, but are also good long-term choices that accomplishes what the Martins want to do as well as what is required by the Township.
- It was further noted that the selected plantings are natural and common and will blend in nicely along the shoreline.
- Heidi Shaffer, Antrim County Soil Erosion Officer has been in communication with the Martins and is pleased they are moving forward. She supports their landscape design as well as the replacement plantings selected for the shoreline buffer.

**Close Public Hearing:
MOTION/S - Sabty/Lundy**

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

Continued discussion on the Martin Site Plan Review: *(Summarized)*

- Mr. Jim Lundy who lives directly across the lake from the Martin's property, agreed with the landscaping plan and thinks it will look good.
- Marshall Wright, Birch Lake resident commented that he believes the Martin's have adequately fulfilled the planting requirements set forth by the Birch Lake Association and is satisfied with the landscape choices the Martin's have made.
- Mr. Jeff Martin acknowledged the letter sent by Mr. Muth. The Martins feel they have addressed the concerns of the Birch Lake Association by seeking the direction and advice of landscaping professionals and utilizing only native species plantings.
- After reviewing the site plan and hearing input from the members and guests in attendance, the Commission agreed the Martins have addressed the importance planting native species along the Birch Lake shoreline.
- Terry Bertrand noted that he hopes to plant the trees and shrubs as soon as the frozen ground allows. He stated that he will keep in touch with the Martins, check the grounds, and will plan to stake the area and label the plantings so the Zoning Administrator and Heidi Shaffer can visualize the layout of the landscape design.
- Zoning Administrator Nix reported the Martins will be needing a zoning permit at some point in the near future. If the plantings are not completed, a permit cannot be issued without a financial guarantee.
- The Commission noted that if Barker Creek is able to move fast enough with the plantings, a financial guarantee may not be necessary.
- The Commission discussed timing of tree plantings as well as the Martins home construction plans. The Martins reported they have contracted with Jay Merchant Builders. Jay Merchant would like to start building the foundation as soon as frost laws allow. Terry Bertrand of Barker Creek would also like to plant trees as soon as possible.

**Motion to Approve:
MOTION/S – Sabty/Lundy**

Move to approve the site plan review requested by Jeffery and Ruth Martin of Grand Rapids, Michigan, current owners of Lot 35, Birch Lake Subdivision, Tax ID #05-06-225-035-00 who have submitted a site plan for review. Approval of the landscaping plan submitted to replace the trees removed from the 25’ wide strip of natural lake shoreline traversing the property, as provided in Section 2.11 of the Elk Rapids Township Zoning Ordinance. The Township Zoning Administrator is to coordinate the projected details of the corrective action, and see that as the project proceeds a Performance Guarantee is posted per Zoning Ordinance Section 17.08.

Motion Unanimously Carried.

- Zoning Administrator Nix reported that he will work with the Martin’s on the timing of the plantings as well as the zoning permit for the upcoming construction. Mr. Nix will also coordinate with Attorney Bill Derman on details and structure of a financial guarantee if/when needed.

Renate Daniels – Bass Lake Violation – Status Report

- Heidi Shaffer and Larry Nix both reported that they both sent violation letters to Renate Daniels and have not heard anything back at this time. Ms. Shaffer also reported that the State has been notified of this violation, however, Keri Kent has not yet been able to address this issue; however Keri is aware and it is on her list. In conclusion, the Daniels application has been denied, Ms. Daniels has been cited, and violation letters have been sent. The State of MI, EGLE, Heidi Shaffer and Larry Nix are all working to resolve and will keep the Commission advised.

Tran Site Plan Review – Un-table from December 14, 2021

**Motion to Un-Table Tran Site Plan Review
Motion/S - Lundy/Amos**

Motion Unanimously Carried.

- Zoning Administrator Nix reported that he has been in contact with Mr. Tran. As per the Planning Commission’s request at the December 14th meeting, Mr. Tran has signed an agreement dated February 11, 2022, to remove the cement patio located in the 25’ protection zone. Once the patio is removed it must be replaced with vegetation coordinated with the Antrim County Soil Erosion Officer, Heidi Shaffer and include 6 trees with a minimum of 2” caliper size to be planted within the 25-foot protection zone. It is also noted the 4’ wide walkway can be maintained between the remaining concrete adjacent to the house and the dock.
- The Board discussed in length whether or not the 4’ wide cement walkway should also be removed and replaced with grass; and the use of something more pervious be used for the walkway. (i.e. bricks, pavers, blocks)

**Motion to Approve Revised Site Plan:
Motion/S – Sabty/Lundy**

Move to approve the revised site plan review request by Tim Tran owner of Property at 14455 Birch Point Drive, Tax ID #05-06-375-012-00, as amended To meet the Elk Rapids Township Zoning requirements. Per Mr. Tran signed a resolution letter submitted on February 11, 2022 as resolution for the removal of the concrete patio from the 25-foot landward from the water edge, planting of six (6) trees between the lake and house, planting grass where the concrete is removed, and retaining of a 4-foot concrete walk way between the remaining concrete patio and the dock. The Township Zoning Administrator is to coordinate the projected details of the corrective action, and see that as the project proceeds, a Performance Guarantee is posted per Zoning Ordinance Section 17.08.

**Roll Call Vote: Lundy YES; Amos YES; Smith YES; Sabty YES.
4 VOTING YES. 0 VOTING NO.
(Crandall, Soper and Pepler are absent)**

Motion Unanimously Carried.

Township Zoning Administrator Report – Larry Nix

- **Puuri-Copus Violation Update:** This was a tree removal violation on Williams Drive. The property owner removed more than 30% of the trees on this wooded lot. After a number of discussions with the owner Mr. Puuri has signed an agreement to plant 15/16 replacement trees with a 2” caliper minimum by June 30, 2022.
- **Zoning Ordinance-Trees:** Mr. Nix reported that he is working with a subcommittee of the Planning Commission as well as Jim Muth, President, Birch Lake Association, and a representative from The Tip of The Mitt on what changes should be made to the Township Zoning Ordinance to add more details that will specifically addresses the protection of trees. Mr. Nix and this group are gathering resources and information on how other communities protect the cutting of trees and how their replacement and penalty system works.
- The Board agreed that more information needs to be communicated to the community regarding the zoning ordinance restrictions on tree cutting. It was suggested that a document with information on the zoning ordinance be part of the purchase agreement whenever a property is purchased or sold in the Township. It was also suggested that an affidavit be filed with the register of deeds and noted on the title insurance commitment.
- Zoning Administrator Nix reported another mechanism he is looking into is working with Karleen Helmrich, Township Assessor to obtain notification whenever a property ownership changes as a way to advise new property owners about the zoning ordinance.

Township Legal Staff Report - Bill Derman

- Short Term Rentals – Nothing new to report – nothing pending at the State level.
- District Library – Township has been sued by the Village regarding library ownership.
- Sheriff’s Dept Report – 807 calls in Elk Rapids last month.
- Farmland Preservation – Nothing new to report.
- Sewer – Special Assessment District is proceeding - The project is out for bids and advertised in the local newspapers.

- August 2, 2022 Ballot – Road Millage Renewal Request .35 mills will be on the ballot. The Road Millage expired in December, 2021.
- Orchardview Site Condo – Nothing new to report.
- HERTHA – Having window issues – Windows need to be replaced.
- Cemetery – Lot of cleaning up and maintenance happening.
- Tart Trail – Nothing new to report.
- Cannabis Shops – There are two shops in Antrim County.

Unfinished Business: Discussion regarding possible duplex sites within agricultural zones.
(Discussion tabled at this time)

New Business:

Zoning Administrator Nix reported that he has had some communication with Orchardview Condo property owners. There are discussions going on about a joint road maintenance agreement. Larry will keep the Commission updated with any future information developments.

Public Comments:

Mr. Marshall Wright asked the Commission if there have been any issues with weekly rentals in the Township. The Commission responded short term rentals have not been an issue and the Township does not regulate them at this time.

MOTION/S Lundy/Amos

**Motion to adjourn.
 Motion Carried.**

Meeting Adjourned at 8:33 PM

(Meeting draft as of Noon – 3/16/22)