

**Elk Rapids Township
Planning Commission**

Meeting Minutes – Tuesday April 16, 2013

Vice Chair Mischel called the meeting to order at 6:30 PM at the Government Center, 315 Bridge Street.

Present: Dorance Amos, Jean Derenzy, William Larson, Jim Lundy, Renee Mischel, Emile Sabty.

Absent: Shen Smith.

Also Present: Leonard Harrett, Zoning Administrator. Larry Nix, Planning Consultant. Audience 12.

Adoption of Agenda: M/S – Lundy/Amos. After adding item, “Zon Adm Comments,” Agenda for 4-16-2013 meeting was adopted unanimously.

Approval of Minutes: M/S – Derenzy/Lundy. Minutes for 2-28-2013 meeting were approved unanimously.

Public Forum: None

Zoning Administrator Comments: Mr. Harrett informed of his contact with the Michigan Natural Shoreline Partnership (MNSP) to find out who qualify as certified professionals in this area. A certification involves attending an 8 hour class on the subject. Quite a few in this area have qualified, and more are attending the class. To their knowledge Elk Rapids Township is the first entity to adopt such an Ordinance, which they hoped others would follow. Mr. Harrett informed the MNSP that we specified an MNSP certification so that the blueprints we get are proper and the preparer is familiar with the new approach to shoreline protection.

Public Hearing

The Vice Chair opened the Public Hearing for review of amendment 2013-01 as Noticed.

With no public input, Sabty/Lundy moved to close the Public Hearing.

Passed 6-0-0

Amendment Number 2013-01

Amend the Elk Rapids Zoning Ordinance text to read as follows:

1. Chapter 1; Section 1.03 – DEFINITIONS – Delete: “**Board** – The Zoning Board of Appeals for the Township”.
2. Chapter 18; Section 18.05 – POWERS OF THE ZONING BOARD OF APPEALS, Subsection B – Change the last sentence text to read:

“...the literal enforcement of the requirements of this Ordinance would involve practical difficulty ~~or would cause undue hardship.~~”

It was noted that the text at the end of the sentence, “*or would cause undue hardship*” appear in error in the current Ordinance. Amendment 2007-01 effective 8-23-2007 deleted this text per MI Act 110 of 2006. Today it is hereby corrected.

M/S – Sabty/Lundy. Move to approve revising the Zoning Ordinance Sec 1.03 & 18.05-B per Amendment 2013-01 as written and corrected, and send it to County for their approval.

Roll Call - Passed 6-0-0

The Vice Chair opened the Public Hearing for review of amendment 2013-02 as Noticed.

With no public input, Sabty/Lundy moved to close the Public Hearing.

Passed 6-0-0

Amendment Number 2013-02

Part 1. Amend Chapter 2, General Provisions, Section 2.06 Accessory Structures, Sub Section C Detached Accessory Structures to read as follows:

C. Detached Accessory Structures

1. May only be built on a lot upon which there is a principal structure.
2. Are prohibited in the front yard, as defined in Section 1.03-Yards-Front Yard, or in either of the front yards on a corner lot, unless the following conditions apply:

On a waterfront lot, one (1) detached accessory structure may be located on that Portion of the lot between the water and the principal dwelling provided the following criteria are met:

 - a. It shall not exceed one hundred (100) square feet in area and ten (10) feet in height to the peak.
 - b. Shall meet all setback requirements of the zone district in which it is to be located.
 - c. The area of such accessory structure shall be counted as part of the overall lot coverage on the lot.
3. Shall not be used for dwelling purposes. If plumbing facilities will serve the structure, the structure shall be limited to no more than two (2) internal plumbing fixtures located on the ground or first floor of the accessory structure.
4. Shall maintain a minimum of ten (10) feet of separation from each other and from the principal structure.
5. Shall comply with all yard, setback and lot coverage requirements applicable to the permitted principal structure, except for accessory structures on lots less than or equal to one (1) acre (43,560 sq ft), the following shall apply:
 - a. The accessory structure shall not exceed eighteen (18) feet in height to the peak.
 - b. Within any zone district that permits a residential use, a maximum of two (2) detached accessory structures are permitted, one of which shall not exceed one hundred (100) square feet in area and ten (10) feet in height to the peak.
 - c. When a lot is less than or equal to one (1) acre (43,560 sq ft), the total ground level gross square footage of all detached accessory structures shall not exceed the gross square footage of the first floor of the principal structure, exclusive of all attached accessory structures.
6. Lots under common ownership that are adjacent to one another or separated only by a public road (e.g. lots are directly across from one another) may be legally combined to form one lot. Once combined, an accessory structure may be erected across the street from the principal building lot provided all yard requirements for a principal structure are maintained.
7. If the detached accessory structure has an attic or second story, it shall be used for storage purposes and access to the attic or second story shall be by interior access only; exterior access or stairs shall not be permitted.
8. A site sketch shall be submitted along with a zoning permit application and approved by the Zoning Administrator prior to erection of a detached accessory structure. Such site sketch shall be drawn to scale and shall illustrate information necessary to determine compliance with applicable Ordinance requirements, including but not limited to dimensions and height of the structure, setbacks from lot lines and other structures on the property, location of the structure, and elevation renderings.

Part 2. Amend Chapter 2, General Provisions, Section 2.06 Accessory Structures, Sub Section D Attached Accessory Structures to read as follows:

D. Attached Accessory Structures

1. Shall comply in all respects with requirements of this Ordinance applicable to the permitted principal structure.
2. An attached accessory structure may include second floor living space provided that such living space is a contiguous extension of living space within the primary structure. Access to the second story shall be by interior access only; exterior access or stairs shall not be permitted.

3. Attached accessory structures shall comply with all yard, setback, height and lot coverage requirements applicable to the permitted principal structure, except accessory structures on lots less than or equal to one (1) acre (43,560 sq ft), the following shall apply:

An attached accessory structure, including a garage, shall not exceed sixty (60%) percent of the ground floor area of the attached single family dwelling. Notwithstanding the above, an existing single family dwelling less than 960 square feet is permitted an attached garage up to five hundred and seventy six (576) square feet, or 24'x24', in area regardless of the ground floor area, subject to standards within the applicable zone district.

M/S – Sabty/Lundy. Move to approve revising the Zoning Ordinance Sec 2.06-C & D per Amendment 2013-02 as written, and send it to County for their approval. **Roll Call - Passed 6-0-0**

Vice Chair Mischel opened the Public Hearing for review of amendment 2013-03 as Noticed.

Mr. R. Kingon, President, ESLA spoke favorably of the proposed Ordinance and suggested that in addition to using a Natural Shoreline Professional certified by MNSP when preparing a Site Plan, to also include the use of a qualified professional to do the work.

Ms. Heidi Shaffer, Antrim County Soil Erosion Control Officer, spoke of the Amendment as being a great step in the right direction. She addressed the Hi and low energy sites on our lakes and the traditional Vertical Rock Shoreline fixes. She cautioned to be careful not to limit the Ordinance to using the Natural Shoreline Providers; because we have Hi energy lakes that sometimes need to be armored. That they are trying to get contractors to modify the vertical shoreline approach and get them to angle the rocks so that the wave action is not hurting the vertical faces head on and the side effect that can impact a neighboring property. Their goal is to have them change the angle when installing rock on the shoreline. The shoreline providers must be exposed to the new concept of technology so that they would know what they are doing in performing an effective job. She cautioned of going only to the natural shoreline providers, and to make sure that people attempting to protect their shoreline are using a certified professional to work on the project.

Again she reiterated that the Ordinance is wonderful, and not to limit it only to the natural shoreline concept because it would not work in all cases; at the time of conducting a Site Plan Review such determination can take place. The DEQ and the County are trying to promote the new concept, but the final approval is in the Township Review Process. Make sure that the rocks are put in on an angle and are rounded at the edges.

She distributed a sample of a DEQ application (3 pgs), with added pictures of a shoreline, drawings of a Site Plan with cross sections etc and different suggested plantings. The process is not a simple one; but done right, the application would cost \$50 as compared to \$500 cost for a vertical wall with large rocks.

With no more public input, Sabty/Lundy moved to close the Public Hearing. **Passed 6-0-0**

Derenzy/Sabty moved to amend the proposed text in section 2.11-D-1 to add "*or a qualified professional*" **Roll Call - Passed 6-0-0**

Amendment Number 2013-03

Amend Chapter 2, GENERAL PROVISIONS, Section 2.11, RESTRICTIONS APPLICABLE TO PROPERTY ABUTTING LAKES, RIVERS OR STREAMS, as follows:

Many lands within the Township are connected to, adjoin or abut lakes, East Arm of the Grand Traverse Bay, rivers, streams, and wetlands. In the interest of protecting the water quality, controlling erosion, and preserving the natural setting of the shoreline, the following provisions are applicable:

- A. No permanent groin wall structure, as defined by the Michigan Department of Natural Resources, shall be installed as a shore land erosion control device on any of the inland lakes, rivers and streams within the Township.

- B. Man-made extensions from the shoreline into or over said inland lakes, rivers and streams shall have an open sub-structure construction so as to allow the free and unrestricted movement of the inland waters natural current.
- C. A strip of natural vegetation shall be maintained paralleling the shoreline or streambed and traversing the property in question for a depth of twenty-five (25) feet beginning at the edge of surface loam soil or a contiguous root system, whichever occurs nearest to the shoreline. For undeveloped lots only no more than thirty (30) percent of all living trees and shrubs may be removed by cutting them to grade level. Trees and shrubberies may be trimmed and pruned for a view of the water from the property. No land alterations including the removal of tree stumps and natural ice dams shall be allowed within this native protection strip.
- D. If living trees and shrubs are proposed for removal in excess of those permitted in Section 2.11-C, or if land alterations will occur within the native protection strip specified above, the following requirements must first be met:
 1. The applicant shall submit a site plan in accordance with Chapter 17. The submission requirements for the site plan shall include items 17.04-A 1-14, and 17.04-B 1-7 and 22. The site plan shall be prepared by a Natural Shoreline Professional certified by the Michigan Natural Shoreline Partnership **or a qualified professional** and shall detail the proposed modifications to the property to enable the Planning Commission to determine the extent and potential impacts of proposed changes. In addition to the review process outlined in Chapter 17, prior to Planning Commission action on the request, the applicant shall submit the site plan to the Antrim County Soil Erosion Control Officer for review. The Planning Commission shall not approve the site plan unless the Soil Erosion Control Officer recommends approval in writing.
 2. The shoreline erosion design shall make every effort possible to maintain a forested/wooded shoreline character by maintaining existing trees and shrubs in the design and construction of the new shoreline protection system.
 3. The Planning Commission may require a performance guarantee as outlined in Section 17.08 to insure completion of any restoration, native landscaping or other features of the proposed modifications. An inspection coordinated with the Township Zoning Administrator, conducted by the Antrim County Soil Erosion Control Officer shall take place after the modifications have been completed to determine whether stipulations have been met and whether Township permits can be issued. A second inspection coordinated with the Township Zoning Administrator, shall be conducted by the Antrim County Soil Erosion Control Officer one year after Township permits have been issued to determine whether any required performance guarantee can be relinquished to the applicant. If the condition of the site is in compliance with approved plans, any such performance guarantee shall be returned to the applicant.
 4. The Planning Commission shall consider the recommendation of the Soil Erosion Control Officer, the extent of proposed vegetation removal or land alteration, proposed restoration, existing and proposed topography, and the location of any nearby structures. The application shall be approved where it is shown that the proposed modifications will not be injurious to shoreline on adjacent properties, and where the plan demonstrates an intent to improve a situation that is dangerous to the general public or harmful to water quality because of unchecked or potential shoreline erosion, sediment runoff or water pollution.

M/S – Sabty/Lundy. Move to approve revising the Zoning Ordinance Sec 2.11 per Amendment 2013-03 as written and amended, and send it to County for their approval. **Roll Call - Passed 6-0-0**

Old Business - None

New Business

Twin Bay Medical, Inc. - A letter from the applicant dated March 25, 2013 was received requesting that the Planning Commission extend the approval of the existing 5-17-2011 Site Plan, as is, for another year.

Mr. Sabty explained that Twin Bay Medical, Inc was recently purchased by Saint-Gobain Performance Plastics. A letter on hand from Mr. John Duston, Plant Manager requests the extension of the existing Site Plan as is. The pending Site Plan work is to complete the south addition to the structure as planned and with no changes to the approved Site Plan. Mr. John Duston was introduced to the PC.

M/S – Mischel/Sabty. Move to grant a one year Site Plan extension, without change, that would expire on 4-16-2014, to the existing Twin Bay Medical, Inc. Site Plan approved on 5-17-2011 for the property located in Elk Rapids Township at 11590 US-31 South and currently owned by Saint-Gobain Performance Plastics. **Passed 6-0-0**

Site Plan Review. – 365 Outdoor Inc.

Applicant: Property Owner, Michael A. Young (Linden Point Farm LLC). Business Owners, Scott Felker and Eric Rubert.

Location: 11550 S US-31, Williamsburg, MI 49690, a.k.a. part of Lot #2 W F Stepke Subdivision, Tax ID# 05-06-650-002-00.

Request: Site Plan Review including, but not limited to, proposed updates and improvements for their landscape and irrigation business on the site as required by the Zoning Ordinance.

History:

- 3-24-1988, National Fence Co. requested a Public Hearing, Special Exception use permit for a C-1 zoned property for outside holding area of commercial fence material and RV storage at the rear of the property. Special Exception was approved with 4 conditions, two of which expounded on a green belt
- 11-15-1993, Traverse Brewing Co. received a Site Plan Review approval. Ordinance requirements were discussed with 9 conditions and modifications recorded including the existing green belt.

Vice Chair Mischel asked Mr. Harrett to review his written report on the application.

Mr. Harrett stated that of concern is the new proposed large building to be located on over 10' elevated grounds next to the existing main structure. Also, the existing green belt buffering plants around the property do not maintain their leaves throughout the year as required by ordinance. Of concern is the front setback area that contains the existing fence. The ordinance addresses things above the ground; it regulates structures but not driveways, sprinkler systems etc. The ordinance does exclude fences from structures. Also masonry or solid fences are also mentioned in the ordinance, anything that basically screens need to be as high as the material or objects within the site that needs to be screened.

Mr. Amos asked what was required earlier on the green belt on this property. Mr. Harrett responded that in 1993 when the Brewery, the previous owner, started their business there, the fence and green belt already existed, and was put there probably by the previous owner The Nationwide Fence Co., The Site Plan Review for the Brewery included a condition for the Green Belt requirement which referred to adding evergreen plantings. The evergreens were not added.

Mr. Nix went over his memo of 4-15-2013. The 365 Outdoor Inc. needs a Site Plan, and because of outdoor storage also needs a separate Special Exception Use approval. At this meeting we are dealing with the Site Plan only:

- The applicant indicated that April 2014 would be the official business startup date; which needs clarification.
- The non evergreen existing screening was mentioned earlier.
- The circle drive in front encroaches into the ROW. It also dead ends into the three parking spaces upfront where it becomes a dead end street if the three spaces are in use.
- The mentioned upfront gate location needs to be defined.
- Number of parking spaces is adequate, but need to be designated properly on the Site Plan as 10'x20' spaces rather than the 10'x15' spaces currently indicated.
- The sign is adequate.
- There are three proposed future buildings mentioned to be built during 2015-2018 time period; they are provided for in sketches. If they are to be included with the Site Plan, it should be conditional upon that those buildings are going to be built in the future, that we get more detailed building plans to review prior to authorizing their construction.

He hoped that the applicant can clarify some of those points then go back and update the Site Plan with the conditions of approval where missing items are shown.

Vice Chair Mischel pointed that the discussed memo included reference to lighting which is not addressed on the Site Plan and need to be included when the Site Plan is updated.

Mr. Amos reiterated that the proposed future buildings would come about at a different time, and that this Site Plan addresses only the current items contemplated.

Vice Chair Mischel asked about a typical site plan time frame limitations. Mr. Harrett responded that typically the applicant submits a clear and detailed Site Plan within a one year time frame to start the work. If the work is not started before one year elapses, they would have to start over. If the submissions are complete and to standards, they may request one year extensions.

Mr. Sabty stated that this Site Plan mentions future buildings still in the sketch category; nothing is factual or is based on certified engineering drawings. Today we would deal with the facts on hand, but we cannot approve what is not a fact nor phase it into an unknown future.

Vice Chair Mischel expressed her concerns about the ground elevations in the Site Plan and asked Mr. Harrett to address that. Mr. Harrett stated that higher elevations were observed at the area where the proposed large building would be located, it is over 10' higher when compared to the existing building;. If the large building is approved with its proposed height, it would be a concern that has to be addressed within a commercial area. Elevation concerns are shown on a side view of a structure and this Site Plan need much more details to address proposed structures.

Mr. Sabty distributed and went over a summary of needed conditions to approving the Site Plan for the time frame through April 2014 that would address the concerns. *The summary appears on page 7 at the end of the discussion as updated during member discussions to reflect the group consensus.*

Vice Chair Mischel asked the applicant (Mr. Scott Felker and Mr. Eric Rubert) to comment about their application? They stated that they don't need all the designated parking spaces for their business. Mr. Nix advised that they don't need to physically establish all those parking spaces except show them on the Site Plan and designate them as such. The designated area would stay as open space.

The Applicants addressed the part of the front setback area west of the front fence. They hope to use it as a temporary storage for plants in season, and hope to be allowed to do that. Mr. Nix advised that as the applicant is not asking for structures in that location, so long as it is a temporary plant material storage, it would not hurt being an in transit location. The Applicant stated that as to the area at the South west corner of the property, it is not paved to use for such storage. The circular driveway is to facilitate customer usage of the traffic area. MDOT has no problem with the driveway encroachment. The higher elevation mentioned resulted from the excavations placed there when the current structure was built and would be addressed at the time of new construction.

Vice Chair Mischel stated that we need a letter from MDOT allowing the encroachment. There is also a need to show the location of the "gate" on the Site Plan. The applicant pointed the would be location during discussion

Mr. Sabty suggested that the applicant move the indicated circular driveway to the west approximately 10' which will put it out of the ROW area and the PC then would not have to deal with MDOT approval. However that would be up to the applicant to do.

Vice Chair Mischel inquired about the kitchen and fire pit area referred to on the Site Plan, and if the area is for show case only. The Applicant responded that it would a functional show case area because they would be selling those features.

Vice Chair Mischel asked Mr. Nix about his recommendations on what transacted so far. Mr. Nix stated that so far we have established what the applicant wants. The suggestions to move the circular drive out of the ROW is a good one. In terms of the proposed front setback conditions, I agree that there should be no trailers or equipment parked there. However I don't think plant material, landscaping or other material should not be allowed to be there temporarily as long as there are no buildings or structures there; it is a low area which makes it convenient to irrigate; it would blend in with that part of the property landscape. We can add as part of the Special Exception submission for the Public Hearing that the applicant have a revised Site Plan prior to the meeting that reflects these changes, comments and conditions that we have been discussing here, and also have an updated date on the Site Plan as to the date completed.

Vice Chair Mischel referred to the memo part on lighting, that lighting poles are not to be higher than 25 ft and site lighting not to exceed 20 ft candles, precisely how high are each of the proposed lights fixtures; the same for the fixtures on the building, that this should be a condition added to the Site Plan.

Mr. Sabty asked about using the area south of the bins wall to store the compost and plant material currently indicated to be stored in the open area in the west side. The Applicants explained that the piles there would be landscape refuse material rather than commercial material.

Mr. Sabty went through the process for holding the Special Meeting for the Public Hearing, Special Exception Use, and the need for the completed Site Plan to be approved prior to going into the Public Hearing. We would need the updated Site Plan on hand in time for the Planner to review it and be able to distribute it with any findings to the PC members with the Special Exception pkt.

Mr. Amos asked Mr. Nix to summarize his needs to keep the process moving forward. Mr. Nix stated:

- Within the coming two weeks the applicant should submit a revised and dated Site Plan to be able to go through the Special Exception Use Public Hearing.
- It needs to show the location of the gate.
- Show revising the circular drive out the MDOT ROW.
- Probably note the proposed plant holding area for spring to fall use in the front setback and indicate no trucks or trailers to be stored in this location, and also include no plant landscape material to be stored there.
- The Site Plan should show more information on the proposed lighting at the yard and building; height of poles and explain the photometric set and cutoffs.

Mr. Harrett spoke of earlier PC Minutes that discussed the existing screening belt as being acceptable, and that evergreen trees would be added as stated in the ordinance to enhance the area in the future. He quoted from the 11-15-1993 PC minutes, "*The last item to be resolved was the greenbelt requirement, and it was decided the present screening was acceptable. The Commission did decide the Brewing Co. would add evergreen trees approximately a foot (12") high and spaced as stated in the ordinance to enhance the area in the future.*" This was not done at that time. Then he went on to say that since we are including a condition to void past approvals, should it not also apply to the existing green belt.

Mr. Sabty responded that voiding previous conditions and uses had dealt with operations. To apply the voiding condition to an existing screening plant belt that has been there since 1988 and is 15-25 ft wide and runs around the perimeter of the property approximately 1500 ft, is not a practical or desirable approach. The plants existed, have been growing there and were accepted throughout the years, they were never disputed by the TWP. Now to come and tell the new owners that they have to uproot the non evergreen plants and redo it planting evergreen type plants is neither fair nor desirable. He then asked the Chair to ask for the members input on this.

Vice Chair Mischel stated that based on the premise that past approved conditions are voided, what we did in the past may or may not pertain to what the PC would like to do in 2013, then asked the members for their input.

Mr. Amos stated that he agrees with Mr. Sabty; he is comfortable with what is there now, however if some plants should die off, that they be replanted to meet the specification in the Zoning Ordinance. Mr. Lundy, Ms Derenzy and Mr. Larson concurred with Mr. Amos statement.

4-16-2013 Site Plan Review – Conditions

1. **Void Past Approvals:** Other uses and conditions previously approved by the Elk Rapids Township that are not associated with 365 Outdoor, Inc. operations are hereby voided.
2. **Outdoor Functions:** No outdoor functions are allowed on the premises that are not considered in the landscape and irrigation category.

3. **Septic System:** The applicant shall either secure a permit or a letter of acceptance of the on-site septic system from the County Health Department.
4. **Sewer Line Hook-Up:** The property owner warrants and agrees to hook up to the Township sewer system if and when it would become available to the property.
5. **Outside Lighting:** To prevent glare from traveling onto neighboring properties, or cause traffic problems, outside lighting located on the property is to be Zero Degree down mounting.
6. **Front Set Back:**
 - a. Should adhere to the deeper front setbacks in practice by the US-31 Corridor Commercial Zone businesses as advanced by the Master Plan.
 - b. The 15 parking spaces located west of the front set back line should be separated from it by "Parking Blocks" or anchored "Rail Road Ties"
 - c. No trailers or equipment is to be parked in the front setback area behind or in front of the existing fence. Living landscape material may be temporarily stored at the front setback area west of the fence.
 - d. The circular driveway in the front, around the sign, should not encroach into the MDOT ROW.
7. **Site Plan Time Frame:** This Site Plan covers proposed changes contemplated and completed by 4-16-2014. Future proposed structures should be applied for at such time with the required engineering drawings and other required standards.
8. **Outside Storage:** Landscape Material should be stored in bin blocks, especially any piled material, pending a Special Exception Use Permit.
9. **Parking On Site:**
 - a. All 42 customer and employee designated parking spaces should be configured on a 10'x20' parking area per vehicle.
 - b. Any customer and employee parking spaces that would not be currently developed are to be noted as "Available Future Parking Spaces," and should be preserved and their space stay opened.
10. **Greenbelt Requirement:** The present plant screening is acceptable, however if some plants should die off, that they be replanted to meet the specification in the Zoning Ordinance.

With no further discussion, Vice Chair Mischel suggested tabling the Site Plan until the May 21, 2013 Special Meeting where approval would take place in advance of the Special Exception Use request for review.

Amos/Lundy moved to table the Site Plan until the next meeting.

Passed 6-0-0.

Collaborative Master Plan

Mr. Sabty gave an update on the status of the Plan. It was distributed and 63 days from that date June 3, 2013 we can hold a joint public hearing. He will work on scheduling the Public Hearing and hope to have more information on hand at the next meeting.

Correspondence: None

Public Comment: None

Members Comments: None

As there was no further business Vice Chair Mischel adjourned the meeting at 8:50 PM.

The next meeting will be a Special Meeting to be held on Tuesday May 21, 2013 at the Government Center, 315 Bridge Street, Elk Rapids MI.

E. S. Sabty, Secretary
4-16-2013

Approved 5-21-2013

Minutes are subject to approval at the next regular Planning Commission Meeting.