Elk Rapids Township Planning Commission
Shen B. Smith - Secretary
PO Box 175, Elk Rapids, Michigan 49629
(231) 264-6665 Email - shen@bokhara.com

OCTOBER 1, 2002

The Regular Monthly Meeting of the Elk Rapids Township Planning Commission was called to order by Chairman Renee Mischel on, Tuesday, October1, 2002, at 6:30 PM, Elk Rapids Township Hall, Corner of River & Spruce Streets, Elk Rapids, Michigan. Present: Renee Mischel, Emile Sabty, Tom Dame, Shen Smith & Harry Potter. Absent: Jim Lundy and Don Glowicki, Jr. A quorum was established. Also present: Lukas Hill (Township Planning Consultant), Len Harrett (Township Zoning Administrator), Rosemary & Gerald Filar, Charles Meyer, attorney for Mr. & Mrs. Filar, Nancy Suzor & Bruce Suzor, Carolyn Shah, Fran & Joseph Rosengren, Bill White, and Pat & Carol Brady.

PUBLIC HEARING: NON-CONFORMING STRUCTURE UPGRADE FROM CLASS "B" TO CLASS "A", for Nancy Suzor, et all, 8647 N. Bayshore Drive, Elk Rapids, Michigan 49629, Lot 12, Elk Rapids Shores Subdivision, property tax number 05-06-350-004-00. Applicant seeks permission to create an addition to the non-conforming residence. The chairman opened the Suzor hearing to the public. No correspondence was received. Nancy Suzor spoke presenting her site plan and indicating a need for more living space within her 800 S.F. A-frame cottage as she has a very large family thus the wish to double the living space. As there was no input from the public in attendance, a motion was made by Shen Smith, 2nd by Tom Dame to close the public hearing. **MOTION CARRIED 5-Y 0-N**.

Discussion regarding the general area where the Suzor home is located determined a need for a closer look at the area as there is a strip of land containing approx. six homes that are all extremely close to the road right of way. The Suzor home being only 22 feet from the road right of way, with others being within 14 ' and one actually in the road right of way. All of the lots in question have substantial lot areas in the rear for residential construction within the set backs required by the Zoning Ordinance. Further study of these lots needs to be undertaken. A motion was made by Tom Dame, 2nd by Harry Potter, to table for review the N. Bayshore Drive area and review of the Suzor application until the November Regular meeting. **MOTION CARRIED 5-Y 0-N**

Minutes of 9/3/02 Meeting: Corrections – Page 1 correct Opinion "for" the record, Page 2 (4th Paragraph) "For seeking relief "from" this body. Paragraph 6 – 2nd line put "s" on purposes. Page 3 – correct Wilcox Info to reflect the document was a deed not a will and the original project was 21 acres with 3 acres being leased to the Elk Rapids Sportsman's Club. A motion was made by Emile Sabty, 2nd by Tom Dame, to approve with corrections. **MOTION CARRIED 5-Y 0-N**

UNFINISHED BUSINESS:

G. & R. Filar Application For Special Exception with the Environmental Zone: A motion was made by Shen Smith, 2nd by Emile Sabty, to untable discussion on the above referenced Filar proposal. **MOTION CARRIED 5-Y, 0-N**

Chairman Mischel asked Mr. Hill to report his findings on the Filar application for the record. Lukas Hill submitted a "memorandum" which was read into the official records, indicating his recommendation to deny the Filar request for the applicants request is not consistent with the residential area (report attached with these minutes). Mr. Hill indicated that an item not in his report to be included was the combining of the two lots as a recommendation of any approval for the project. Chairman Mischel accepted the report and noted the incorporation into the official record. Mr. Hill reported that a site inspection has been completed with a note that the lot in question does have residential buffering. A concern was presented by Mr. Hill indicating that an accessory structure should not exceed the square footage of a primary structure.

Attorney Meyers presented copies of the Filar application and materials, asking that they become part of the record. Secretary Smith indicated the material submitted by Attorney Meyers was identical to the material already in the record. Attorney Meyer's then indicated he felt a denial of the Filar proposal was a "taking

without compensation" and they would be forced to take the matter to court. Attorney Meyers indicated his client wanted a vote of the Planning Commission at this meeting as they didn't wish for further discussions or alternate proposals.

Chairman Mischel asked for discussion and opinions from the Planning Commission members regarding an approval of the Filar Project:

- **Emile Sabty** asked Mr. Filar if he would consider rezoning the property in question from Environmental "E" to Residential "R-1" as a solution to the problems the Planning Commission was having in determining an outcome of the proposal. Mr. Sabty indicated that as the lot is near an end lot in the "E" Zone "spot zoning" would not be an issue in consideration of a rezone application. Mr. Sabty indicated his concern regarding the protection of, and the holding *of* highly dry fringes of the Environmentally zoned lands abutting roads and residential areas within the Township to the strict requirements of the Zone within the Elk Rapids Township Ordinance and the Master Plan. *(Mr. Filar indicated he would not be interested in requesting a rezoning of the property in answer to Mr. Sabty's question.). (Mr. Hill agreed with Mr. Sabty that the applicant could apply for a rezoning of this property as a possible solution. He also stated that with a rezoning, Planning Commission approval for appropriate residential landscaping, a reduced structure (size/type), and location would be more in keeping with the residential nature of the Williams Road area.).*

- **Harry Potter** indicated he did not feel a hardship would be caused if the application were denied. He also felt that Mr. & Mrs. Filar have sufficient storage facilities already on the primary residence property to warrant not granting additional units in the "E" Zone.

- **Shen Smith** asked Mr. Filar if he would be willing to reduce the size of the proposed structure to make it more in keeping with a more usual residential accessory structure. *(Mr. Filar indicate he was not willing to consider a smaller structure, nor any deviation from his proposed plan*). Mrs. Smith indicated that she was not in favor of the construction of a 40' x 40' warehouse type storage structure within the "E" Zone as the "M" Manufacturing Zone already has provisions for like storage (boat storage) buildings of this type. Also, that the "E" zone must be held to a higher standard and meet greater requirements for any construction within the zone as outlined by the Ordinance. The Filar proposal does not demonstrate any needs for which approval of a special use permit should be granted, needs such as, i.e. a very small primary lot with no space available on the lot for a storage unit. In Mrs. Smith's opinion, there are no special circumstances in the Filar proposal to require the Planning Commission to deviate from the wetland standards of the "E" Zone.

- **Tom Dame** indicated the Ordinance is very clear in the handling of "E" Zoned property by special exception and in his opinion; the Filar project does not meet these requirements, nor have the Filar's established a marked reason to override the wetland protection provisions of the Ordinance and master plan which does allow reasonable uses of wetland properties.

- **Renee Mischel** indicated that in light of the comments from the Planning Commission members, and the refusal of the applicant to consider any of the Planning Commission suggestions for alternate methods to find a solution, she asked for a motion regarding the Filar Proposal.

A motion was made by Emile Sabty, 2nd by Renee Mischel to deny the Filar Proposal for a special exception in the "E" Environmental Zone for the construction of a 40' x 40' storage building on Lot #2, Woodlands Subdivision, with the denial "finding of fact" based on all of the above Planning Commission comments, feelings regarding the "E" Zone, and requests to the applicant for further solutions. Discussion: Renee Mischel indicated that the Zoning Ordinance and the Master Plan do allow reasonable uses of properties within the "E" Zone. With no additional discussion the question was called. **MOTION CARRIED 5-Y 0-N**.

ELK RAPIDS SPORTSMAN'S CLUB: Chairman Mischel outlined the steps needed for any construction on the Township property leased by the Elk Rapids Sportsman's Club.

1. Upgrade the Use from Nonconforming Class "B" to Class "A:

2. Special Use Permit for construction in Environmental Zone and Site Plan Review of Proposed Plan.

There would be two separate public hearings with application being jointly submitted by the Township and the Elk Rapids Sportsman's Club. Chairman Mischel indicated the Planning Commission would not proceed without the deed issues being addressed by the Elk Rapids Township Board. Patrick Brady indicated that in the absence of a Park Commission the Planning Commission is the Park Commission, and thus should be the board to review the deed issues. Carolyn Shah spoke regarding her pleasure in the fact her grandmother wished for the creation of a public park, and would like to see the Township create a park for the use of the public. Chairman Mischel indicated the issues would be addressed by the Township legal staff and the Planning Commission would wait for notice from the Township Board. Chairman Mischel asked the Zoning Administrator to contact the E.R. Sportsman's Club to relay the order required to proceed with any alterations of the Sportsman's Club property.

NEW BUSINESS:

GRAMMER LOT SPLIT: After review of the Proposed Grammer Lot Splits, the following recommendations were suggested:

1. Township should adhere closely with the provision stated in **Section 2.20 - Private Roads** when approving a lot split or merger plan with no land use permits to be issued for Lots 3 & 5 until Private Road plan has been approved, and road in place.
2. Special adherence to be given to **Section 2.20 - Private Road, Number 13** (included below):

13. Application for road construction shall be made at the same time as a land division occurs creating a lot(s) without frontage on an existing public road. Applicant shall prepare a general property development plan complying with the requirements of this Ordinance, and the Elk Rapids Township Subdivision Control Ordinance, as amended. Prior to review by the Elk Rapids Township Planning Commission and then approval by the Elk Rapids Township Board, the applicant will prepare and provide three (3) sets of:

    a. Engineered road construction plans.
    b. Drainage plan.
    c. Road maintenance agreement and deed restrictions satisfactory to the Elk Rapids Township Attorney, signed by applicant/owner, providing for:

        1) A method of initiating and financing of such road and/or easements in order to keep the road in a reasonably good and usable condition.

        2) A workable method of apportioning the costs of maintenance and improvements to current and future users.

        3) A notice that if repairs and maintenance are not made within six moths of the date of official notice from the Elk Rapids Township Board of Elk Rapids Township may bring the road up to the design standards of this Ordinance and assess owners of parcels on the private road for the cost of all improvement, plus an administrative fee in the amount of twenty-five (25) percent of the total costs.

        4) A notice that no public funds of Elk Rapids Township are to be used to initially build, thereafter repair, or maintain the private road.

        5) Easements to the public for purposes of emergency and other public vehicles for whatever public services are necessary.

6) A provision that the owners of any and all of the property using the road shall refrain from prohibiting, restricting, limiting or in any manner interfering with normal ingress and egress and use by any of the other owners. Normal ingress and egress and use shall include use by family, guest, invitee, vendors, trades persons, delivery person, and others bound to or returning from any of the properties having a need to use the road.

3. Secure written draft indicating that all lots in the Grammer merger be hooked into the sewer system.

Motion by Emile Sabty, 2nd by Renee Mischel, to recommend approval of the Grammer Lot Merger with the above conditions. **MOTION CARRIED 4-Y, 1-N**. Chairman Mischel extended a thank you to the Grammer's for proposing the lot merger to create more conforming residential lots.

ELK RAPIDS TOWNSHIP ZONING ORDINANCE: Emile Sabty presented the outline for amendments, corrections and reformatting of the Ordinance which is ready for public hearing. A motion was made by Emile Sabty, 2nd by Tom Dame to approve the Ordinance for public hearing as recommended. **MOTION CARRIED 5-Y, 0-N** Two copies will be prepared for the public hearing with on view at the Elk Rapids Public Library, one copy at the Elk Rapids Township Hall, and a downloadable copy on the www.elkrapids.com web site.

A motion was made by Renee Mischel, 2nd by Shen Smith to table remaining items on the agenda. **MOTION CARRIED 5-Y, 0-N.**

As there was no other business, a motion was made by Shen Smith, 2nd by Tom Dame to adjourn. **MOTION CARRIED 5-Y, 0-N.** Meeting was adjourned at 9:40 PM

Respectfully submitted,

Shen Smith
Secretary

Attached to these minute and incorporated as part of: Lucas Hill Memorandum