

**MARION TOWNSHIP PLANNING COMMISSION  
AGENDA**

REGULAR MEETING

June 25, 2019

7:30 p.m.

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

INTRODUCTION OF MEMBERS:

APPROVAL OF AGENDA FOR:            June 25, 2019 Regular Meeting

APPROVAL OF MINUTES FROM:        May 22, 2019 Joint Meeting  
    May 28, 2019 Regular Meeting

CALL TO THE PUBLIC:

New BUSINESS:

- 1) none

Old BUSINESS:

- 1) Nuisance GO final review and send to BOT.
- 2) TXT #03-18 Home Occupation (Does it need to be changed? Jim has proposed changes).
- 3) Marion Township Engineering Standards (Decide on putting regulations in MTES document that the BOT can change monthly or leaving it the Zoning Ordinance and require long process to fix or change.
- 4) TXT#07-17 proposed changes Lots - definition gross versus net (Bob).
- 5) Wellhead Protection Overlay District replacing 6.27 review comments for change requirements.

Correspondence and Updates:

CALL TO THE PUBLIC:

ADJOURNMENT:

**MARION TOWNSHIP  
BOARD OF TRUSTEES/PLANNING COMMISSION  
JOINT SPECIAL MEETING  
MAY 22 2019**

 **ORIGINAL**

**BOARD MEMBERS PRESENT:** Les Andersen, Tammy Beal, Greg Durbin, Bob Hanvey, Scott Lloyd, Dan Lowe, and Duane Stokes

**PLANNING COMMISSION MEMBERS PRESENT:** Jim Anderson, Larry Grunn, Bruce Powelson, and Cheryl Range

**OTHERS PRESENT:** Dave Hamann, Zoning Administrator; John Enos, Carlisle Wortman

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**CALL TO ORDER**

The meeting was called to order at 7:30 pm by Supervisor Hanvey and Planning Commission Chairman Larry Grunn.

**MEMBERS PRESENT**

The members of the Board of Trustees and Planning Commission introduced themselves.

**CALL TO THE PUBLIC**

Jean Root, 723 E. Davis, said she was a member of the Planning Commission in 2008 when the Home Occupation ordinance was put in place, and that the issue isn't an ordinance problem, it's an enforcement problem. The ordinances won't work if there's no enforcement. She feels that Howell Landscaping does not belong in a residential district; it belongs in highway service.

**WORKSHOP**

John Enos from Carlisle Wortman was present to lead the workshop, and thanked everyone for attending. He said the group met to discuss the master plan several months ago; the next step will be for the Planning Commission and Board to approve and hold public hearings.

Mr. Enos said the master plan focuses on who we are as a township and how to deal with growth. Part of the township's development is that people move to Marion to keep the rural character and private property rights. He works in a similar community as the zoning administrator and enforcement officer and one of the biggest issues is home occupations and enforcement of the rules. He's able to write tickets if property owners don't comply. The township needs to define exactly what a home occupation is. The township created language for home occupations in 1977. In 1996, it was amended to be more flexible.

Class 2 typically includes an accessory building and they would have to come to the township for approval. Uses have started to grow and they haven't come to the township. Some have gotten much larger than intended. Some communities say they only allow home occupations, no accessory buildings. When the residential use becomes secondary to the accessory use, it becomes a problem. Ordinances are only as good as the enforcement. He believes it should be complaint driven, not to drive around and look for violations. When there's a complaint and an obvious violation, it needs to be addressed right away. Start with a letter allowing them to correct. You have to set up a process to handle violations. Public hearings need to be held for those more intensive home occupations. You can limit what's allowed, such as number of vehicles, employees, noise, etc. He feels the language we have is pretty reasonable and comparable to other communities.

Les Andersen asked if for a Class II home occupation SUP, can we deny just because we feel it doesn't fit with the rural character. Mr. Enos said yes, but you have to explain why.

Dave Hamann said most people don't have the same definition of "rural". All of the subdivisions in the "Rural Residential" zoning district aren't rural, they're residential. The township needs to define "rural." There's a lot in RR that doesn't fit.

John Enos said there's nothing preventing the township from saying exactly where Class II home occupations will be allowed, i.e., not in SR or more dense areas

Les Andersen asked if a SUP can be allowed based on location, not zoning district. Mr. Enos said yes. He also asked if there is an option for Carlisle Wortman to handle enforcement one day per week

Mr. Enos said what they do in other communities is send a violation letter, and most times the problem is corrected. Mr. Andersen asked if the enforcement person from Carlisle Wortman could work on the list of existing home occupations. Mr. Enos said yes. The property owner needs to figure out how to comply or move the activity to another area. And these end up in court, which also costs money. Dave Hamann said he's doing the same thing now: he sends a letter, then a violation notice, then schedules a show cause hearing. The board needs to be ready to deal with multiple show cause hearings, and also deal with friends and neighbors.

Mr. Hamann said most of his complaints are neighbors complaining about junk and/or junk cars, or neighbor disputes that aren't really zoning related. He said he hasn't received complaints about home occupations. He said he put information in the last newsletter that's sent out with tax bill regarding home occupations, and not one person responded. He also said the township now has a form that needs to be filled out when applying for a land use permit that informs property owners about home occupations.

Mr. Enos said many of these end up in court. Ideally, the township would have dual roles: zoning and enforcement. Someone like a retired planner or police officer does enforcement for 14-16 hours per week. He or she can work closely with the zoning administrator, which keeps the board out of it. The zoning administrator could make decisions on how long to correct violations, etc.

Larry Grunn asked what kind of fines? Mr. Enos said it depends, but usually about \$100, and they have to go to court. The township could look at civil infractions, which is different than a misdemeanor. The attorney has to be involved, so it does cost money. Generally, the attorneys work out an agreement, so it usually doesn't get to a judge. Les Andersen asked if it's very expensive. John Enos said about \$40 per hour, because they're usually also planners. Mr. Grunn said these businesses keep growing, and the township knows about them, but because there aren't any complaints, nothing is done.

Mr. Enos said although enforcement is complaint driven, obvious violations need to be addressed to avoid future problems. Les Andersen said that Marion Township has a reputation for allowing these types of activities. Mr. Enos said the township is centrally located and is appealing.

Mr. Andersen thinks anybody with any type of home occupation should have a permit. Mr. Enos said if they're not impacting anyone, he doesn't feel it's necessary (Class 1), and just adds more bureaucracy.

Bob Hanvey asked about a situation where an individual has an office in an accessory building, and no one knows he's there, would he be required to go through public hearings and the Planning Commission. Mr. Enos said you can never write an ordinance to cover all situations. Tammy Beal said in a case like this, have the owner come to the Planning Commission and Board and it will be approved.

Les Andersen asked if a SUP can have terms associated with it which would allow it to be rescinded when it changes owner. Mr. Enos said yes; some communities require that they be renewed each year.

Greg Durbin said with complaint-driven enforcement, the township still needs to verify that a violation exists, and enforcement should be a simple task. A majority of people will respond if they get a letter

from the township. Establishing tickets, fines, etc., just complicates it. Where does the money from fines go? It forces the township to create a new level of bureaucracy.

Mr. Enos said he would never base a violation on a neighbor complaint. It does have to be documented by the township. Bob Hanvey asked if the township can be the complainant? Mr. Enos said yes.

Les Andersen asked about "grandfathered" businesses. Mr. Enos said it's hard to address those. If it was created before 1977, they can continue. Mr. Enos said the only way to handle those is to have general law language.

Dan Lowe said the ordinance needs to be enforced; otherwise, it's a waste of time. Les Andersen asked if Mr. Lowe would support having an independent enforcement officer. Mr. Enos said if the township knows about some of these situations, those could be the test cases. The language talks about the process, and the board's job isn't to be policemen or a jury. Mr. Lowe said if the township gets started on the big, obvious ones, word gets out and they start to take care of themselves.

Bob Hanvey asked if the township gets in trouble with selective enforcement. Mr. Enos said always, but you have to start somewhere and when the violator brings you evidence of multiple similar situations, you investigate those too. Les Andersen said the board members aren't going to admit it, but they're not going to attack the guy who shouldn't be there because they want to be re-elected. Mr. Lowe said he doesn't care. Mr. Durbin said if the board is doing a good job, the residents will respect that, and to say that board members should back off is totally wrong. Dave Hamann said he's never received a written complaint from a board member.  
*about being re-elected.*

John Enos suggested that the township spend the next three or four months being more vigilant about enforcement. The zoning ordinance has the process: show cause hearing after notification, then to the attorney.

Cheryl Range said the language that was submitted about the nuisance ordinance includes the steps for enforcement.

Bob Hanvey said he's having a hard time with the wording. Mr. Enos said the current language is pretty solid. Mr. Hanvey has a problem with the accessory structure part of it—there are people who use an accessory structure and don't bother anyone. Mr. Enos said if they don't have outdoor storage or signage, it would be okay.

Jim Anderson said the issue is definition, and the difference between a business and occupation. He agrees with Mr. Hanvey that there are a lot of people who have a business inside their home and the township would never know. There has to be some logic/rationale applied and has to be quantifiable.

Dan Lowe suggested using number of trips per day as a criteria.

Jim Anderson, Dave Hamann, Bob Hanvey, and John Enos will meet to discuss definitions.

Les Andersen said the Board of Trustees should have enforcement as an agenda item at an upcoming meeting. Greg Durbin agreed that there should be funds in the budget for enforcement.

The board members asked the zoning administrator to send a letter to the lawn service on Coon Lake Road regarding his home occupation.

Les Andersen asked the PC and Board members to drive down Triangle Lake Road and look at the new house that was built. He feels the township needs to revisit zoning requirements on lakes.

## **CALL TO THE PUBLIC**

Jean Root said she feels there needs to be a definition for home business vs. home occupation, and that the property owner should have the burden of proof when a violation is issued.

Tim Ryan, 459 E. Davis, said he believes the show cause hearings will shake out the disagreements. He also said you can't mix different uses such as retail, wholesale, residential, commercial, together; he also said that landscape suppliers are all universally commercial.

Rick Bigham, 4748 Hawthorne, said there are multiple businesses on Brighton Road between D-19 and Hawthorne that generate too much truck traffic. They also use Hawthorne, which is a private road, to turn around.

**ADJOURNMENT**

Trustee Les Andersen motioned to adjourn at 9:47 pm. Tammy Beal seconded. **Motion carried.**

Planning Commissioner Cheryl Range motioned to adjourn at 9:47 pm. Jim Anderson seconded. **Motion carried.**

Submitted by: S. Longstreet

Tammy L. Beal 6-17-19  
Tammy L. Beal, Township Clerk      Date

Robert W. Hanvey 6-17-2019  
Robert W. Hanvey, Township Supervisor      Date

\_\_\_\_\_  
Larry Grunn, PC Chairman      Date

**DRAFT**

Approved by: \_\_\_\_\_

Larry Grunn, *Chairperson*

Date: \_\_\_\_\_

**MARION TOWNSHIP PLANNING COMMISSION  
REGULAR MEETING MINUTES  
May 28, 2019 / 7:30PM**

**MEMBERS PRESENT:** LARRY GRUNN – *CHAIRPERSON*  
BOB HANVEY  
CHERYL RANGE – *SECRETARY*  
JAMES ANDERSON

**OTHERS PRESENT:** DAVE HAMANN – ZONING ADMINISTRATOR

**MEMBERS ABSENT:** BRUCE POWELSON – *VICE CHAIR*  
JOHN ENOS – PLANNER WITH CARLISLE WORTMAN

**CALL TO ORDER:**

Larry Grunn called the meeting to order at 7:30 p.m.

**PLEDGE OF ALLEGIANCE**

**CALL TO THE PUBLIC:**

**APPROVAL OF AGENDA:**

***Regular Meeting Agenda for May 28, 2019***

Cheryl Range motioned to approve the agenda for May 28, 2019. Jim Anderson seconded. **Motion carried.**

**APPROVAL OF MINUTES:**

***Approval of the Regular Meeting Minutes for April 23, 2019***

Cheryl Range motioned to approve the minutes from April 23, 2019 with the grammar corrections and spelling corrections. Bob Hanvey seconded. **Motion carried.**

***Approval of the Special Master Plan Meeting Minutes for April 29, 2019***

Cheryl Range motioned to approve the minutes from April 29, 2019 with the grammar corrections and spelling corrections. Bob Hanvey seconded. **Motion carried.**

## **NEW BUSINESS:**

### **1) SPR# 01-19 MHOG Pole Barn for Storage**

Greg Tatara with MHOG presented a site plan for a 40x60 storage building/pole barn that MHOG would like to build on their existing property. They would use the pole barn to store various supplies such as excavation materials, their skid steer and other equipment. Currently their supplies are being stored in various locations throughout the County. A lot of the MHOG employees start their day at the main facility located at 4288 Norton Road. MHOG believes that it would make things much easier, if the technicians were able to collect all of their supplies from one facility, instead of having to drive to different locations to get their materials for the day. Ideally, MHOG would like to have all of their supplies stored in one location. This storage building/pole barn would also include another restroom for employees, since currently there is only one bathroom between eleven employees. MHOG has reviewed the letter from Carlisle Wortman and has no issues with any of the recommendations listed in the letter. If they were able to move forward with this project, they would have to re-locate a couple of parking spaces, which they are willing to do. They would also be adding a few additional parking spaces, to plan for future growth. This metal-framed building would have a 14 foot garage door and the colors would closely resemble their existing structure. The building would have a mop sink, windows, proper venting and storage shelves.

Jim Anderson asked if the building would have any fire protection. MHOG said that it would not have fire protection.

Jim Anderson asked what kind of hazardous materials would be stored in the building. MHOG explained that they would be storing minimal hazardous materials such as, five gallon gas cans, about a dozen paint cans and some aerosol cans.

Dave Hamann explained that he was hoping to skip the final site plan review and send this directly to the Board of Trustees for approval, as long as the Planning Commission members felt comfortable doing so. This way MHOG can get moving on building this Pole Barn.

Jim Anderson wanted to know what they planned on doing about the trees, which would have to be taken down. Jim asked if re-locating them would be an option. Jim also inquired about the exterior light packs being installed. MHOG explained that the light packs would be down-facing and that he would be willing to plant new trees somewhere else on the property to make up for the trees being removed. Jim said that MHOG can decide what type of trees they would be planting and can also decide on their location.

Jim Anderson asked if the new restroom would be a unisex bathroom. MHOG said that it would be a unisex restroom.

Cheryl Range motioned to send, Site Plan Review# 01-19 to the Board of Trustees along with the recommendation regarding two new trees being planted and recommends its approval.

## **OLD BUSINESS:**

### **1) Marion Township Engineering Standards**

#### **TXT #01-18 6.20 Private Roads**

Dave Hamann said that he would like the members to provide some feedback regarding shared driveways. He would like the Commissioners to answer/discuss the following questions;

- What should the appropriate length be for a private road? (Currently it is 750 feet.)

- How many Ingress and Egress should be allowed on a private road? (With 30 houses or 75 houses, depending on the district.)
- Should we allow shared driveways? If so then,
  - For 2+ houses, should we require a maintenance agreement for private road & specifications?
  - For 3+ houses, should we require a full private road agreement?

Dave explained that there are a lot of lots in this Township that have two driveways which means a lot of them are in violation. This seems to be happening a lot lately. These questions need to be answered and listed somewhere; either in the Zoning Ordinance or in the Engineering Standards. A lot of these things were pulled out of our ordinance in 2012. Our current ordinance states that a private road should not exceed 750 feet in length. If many residents are still being sent to the ZBA to request a variance for the length of the road, then we should consider changing the maximum road length listed in our ordinance.

Michael Markarian resides at 4077 Cedar Lake. Michael said that they have an oddly shaped flag lot. They would like to put in a shared driveway with 4121 Cedar Lake Road and their current driveway would go away. Michael explained that their hope is to use their driveway as the shared driveway for both of their neighbors; Rob Ward and their son Michael. Michael explained that they recently went to the Road Commission and were denied the right to re-locate all of the driveways because the site distance is about 100 feet short.

Evelyn Markarian said that they are waiting for the Township to make some progress on the language involving shared driveways so they know how to move forward with their driveway plans. ‘

Dave explained that Mr. and Mrs. Markarian are both willing to have a private road maintenance agreement if they are allowed to have a shared driveway. This is really the only sensible option because of the hill that is on their lot. Dave also explained that if we put this language into our Zoning Ordinance then, the Markarian’s could be waiting up to nine months for that to get approved. If this language goes in our Engineering Standards then they could potentially start moving forward after the next Board meeting.

Cheryl Range asked what would happen if they went to the ZBA for a variance. Dave said that they would have to come up with a practical difficulty and pay the \$400 fee and roll the dice on whether or not it would get approved.

Greg Durbin resides at 4389 Sundance Meadows. Greg asked what we had to do in order to allow the Markarian’s to move forward with their driveway plans. They are not bothering anyone and all parties effected want the same thing.

Bob Hanvey said that he thinks instead of having a distance requirement for a private road, it should be based on how many units are located on that road. Jim Anderson agrees with Bob, as long as we come up with the correct footage for the frontage. Larry Grunn says it sounds like we all agree that private roads should be determined by the number of units instead of by the length of the road.

Bob asked if this meant, that we would no longer have control over the length of the road and would we only have control over how many units were located on that road. Dave said that you could limit the number of units but also provide a maximum road length that is not to be exceeded.

Cheryl reviewed and read Putnam’s Private Road agreement language.

Cheryl Range motioned to have a list of Dave’s questions sent out to the Planning Commission members regarding Private Roads and then all of us provide feedback by June 19, 2019. Jim Anderson seconded.

**MOTION CAARRIED.**



## **2) Nuisance Ordinance Verbiage**

Cheryl Range read the Nuisance General Ordinance language from Green Oak Township. Jim Anderson wants to know how many of these complain letters does Green Oak receive in a month and how many are actually valid complaints.

Cheryl Range motioned to postpone discussion on this topic until our next meeting on June 25, 2019. Bob Hanvey seconded. **Motion carried.**

## **3) TXT #03-18 Home Occupation**

Cheryl Range motioned to postpone discussion on this topic until our next meeting on June 25, 2019. Bob Hanvey seconded. **Motion carried.**

## **4) TXT #07-17 Proposed Lot Changes**

Cheryl Range motioned to postpone discussion on this topic until our next meeting on June 25, 2019. Bob Hanvey seconded. **Motion carried.**

## **5) Wellhead Protection Overlay District Replacing 6.27 Review**

Cheryl Range motioned to postpone discussion on this topic until our next meeting on June 25, 2019. Bob Hanvey seconded. **Motion carried.**

## **CORRESPONDENCE AND UPDATES:**

Dave shared the brochure information regarding the "Zoning Retreat" taking place on July 9-10 at the Shanty Creek Resort in Bellaire. Cheryl Range asked if this course was available to take online. Bob did not believe that it was available to take online. Jim Anderson asked what the deadline was for making Hotel Reservations.

## **CALL TO THE PUBLIC:**

## **ADJOURNMENT:**

Cheryl Range made a motion to adjourn the meeting at 9:38pm. Jim Anderson seconded. **Motion carried.**

**Section 17.32 Home-Based Business**

Home-Based Business are considered special uses therefore are subject to the provisions of Article XVI, Special Use Permits, and other applicable provisions of the Ordinance. A Special Use Permit, and any conditions attached thereto, may be approved by the Township Board if all the criteria listed are met.

A Home-Based Business is an occupation, business, commercial activity, company or profession carried on by family members residing on the premises which is clearly incidental and secondary to the principal single-family residential use and has one or more of the following characteristics and is not a farm operation as defined herein:

- (1) The business has one or more employees who do not reside on the premises but who work on the premises or travel to the premises to pick up business vehicles or equipment for use off the premises;
- (2) The business has outside storage of materials or equipment solely related to the business within a designated and screened area; and/or
- (3) Has vehicles related solely to the home or business.

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**Locational Requirements:** Home-Based Business are permitted by special use permit in the Rural Residential and Suburban Residential Districts.

**Site Requirements:**

- A. A Home-Based Business may be permitted in both the dwelling unit and accessory structure. The Home-Based Business shall not occupy more than twenty-five (25%) percent of the total gross floor area of said dwelling including the basement, however, may encompass the entire accessory structure. Accessory structures used for business purposes shall conform to Section 6.07 Accessory Buildings and Structures.
- B. The residential appearance of the dwelling shall not be altered in order to conduct the Home-Based Business
- C. The Home-Based Business shall be clearly secondary and incidental to the use of the dwelling as a place of residence, and shall not result in a change to the essential character of the premises including both the dwelling and yard areas.
- D. All of the activities on the property related to equipment and vehicle repair, cleaning, painting and maintenance, associated with -the Home—Based Business shall be carried on indoors.
- E. Storage and use of combustible, toxic or hazardous material associated with the Home-Based Business shall be done in a safe manner in full compliance with all federal, state

and other governmental requirements concerning the use, handling, transport, storage and disposal of any such materials.

- F. ~~E.~~ Storage and use of combustible, toxic or hazardous material associated with the Home-Based Business shall be stored indoors in a safe manner in full compliance with all federal, state and other governmental requirements of any such materials.
- G. Solid or liquid refuse or waste or hazardous waste generated by the Home-Based Business~~occupation~~ shall be safely and properly disposed of in a safe manner in full compliance with all federal, state and other governmental requirements of any such materials.
- H. In no case will radioactive, medical, or biomedical chemicals or materials be received, stored, used, or processed on the site of the Home-Based Business
- I. In no case will radioactive, medical, or biomedical chemicals or materials waste be received, processed or storage on the site of the Home-Based Business.
- J. No equipment or process shall be used in such Home-Based Business, which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal human senses off the subject site. In addition, in regard to electrical interference, no equipment or process shall be used that creates visual, audible, or noticeable interference in any radio or television receivers off the site or that causes fluctuation in line voltage off the site.
- ~~K.~~ The Home-Based Business shall be conducted so it does not constitute a nuisance —or annoyance to the residents of adjoining properties due to noise, smoke, odor, —electrical disturbance or night lighting, or the creation of unreasonable traffic to K. the premises.

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- L. A resident of the dwelling on the lot shall be actively and personally engaged in and responsible for all home occupation operations. The number of non-resident employees who can be employed by a Home-Based Business shall be regulated by the size of the parcel containing the business as follows:

Minimum Lot Size	Maximum Number of Non-Resident Employees
2 or more acres and less than 5 acres	1
6 or more acres and less than 9 acres	2
10 or more acres and less than 12 acres	3
12 or more acres	4

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The Planning Commission may, in its discretion, allow a greater number of Non-Resident Employees than those shown in the table above, where the Operator of the business can provide clear and convincing evidence that doing so will not interfere with the principal single family residential use of the premises and also the surrounding area, and further, only where the Non-Resident Employees travel

to the premises to pick up business vehicles or equipment for use off the premises. In the event the Home-Based Business premises are split or otherwise reduced in acreage, the Operator will immediately be limited to the number of Non-Resident Employees allowed on the remaining Home-Based Business premises as shown in the table above, unless the Operator seeks a new Special Land Use Permit on the remaining premises within 90 days of the split or reduction in acreage. In the new Special Land Use Permit, the Planning Commission may in its discretion reduce the number of Non-Resident Employees allowed on the remaining premises.

**M.** Outdoor storage of materials and equipment involved in the business is permitted provided it is adequately screened so it is not visible from adjoining roads and properties. Measures to screen such material or equipment are subject to the approval of the Planning Commission and shall include but are not limited to one or more of the following: a solid fence no more than six feet in height; plantings which are at least five feet in height at planting and which will provide an adequate year-round screen; the topography of the site; existing vegetation on the site or the screening is provided by existing buildings.

**N.** The residential appearance of the dwelling shall not be altered in order to conduct the Home-Based Business

**O.** The Home-Based Business shall comply with all applicable federal, state and local laws, including, but not limited to, laws regarding licensing, occupational health and safety, and the environment.

**P.**

**P.Q.** Home-Based Business approval is not transferable with the sale, rental or lease of the dwelling unit.

**Q.R.** Home-Based Business are allowed signage. See Article XV Signage.

**R.S.** Visitors, customers and deliveries shall not exceed a total of twelve (12) during a single day. The Township Board may modify this standard in the case where the Township Board determines that the operation of the Home-Based Business will unreasonably interfere with the use and enjoyment of nearby properties and/or undermine the intended character of the area. No traffic shall be generated by the Home-Based Business in volumes in excess of that which is normally associated with a single family dwelling, and such traffic shall be limited to passenger vehicles, delivery vans, and similarly sized vehicles. The Township Board may relax this requirement upon a finding that the allowance of a specified increase in traffic, including truck traffic, will not undermine the public safety and welfare based on such factors as the size of the lot, the proximity of nearby residences, and road and dust conditions, nor unreasonably interfere with the use and enjoyment of nearby properties and/or undermine the intended character of the area. Nothing in this subsection shall be interpreted to allow outdoor parking in excess of that regulated by subsection below.

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S.T. In no case shall more than eight (8) motor vehicles be temporarily or permanently parked or located outdoors, including vehicles owned or used by residents of the dwelling and employees of the business. The Township Board may decrease the above standard in the case where the Township Board determines that, without such reduction in the standard, the operation of the Home-Based Business will unreasonably interfere with the use and enjoyment of nearby properties and/or undermine the intended character of the area. The Township Board may require screening of parking areas to minimize negative impacts on neighboring properties.

**Performance Standards:** Prior to recommending approval, the Planning Commission shall determine that the proposed Home-Based Business is not incompatible with existing land uses in the area and would not be detrimental to the safety or convenience of vehicular or pedestrian traffic.

A. For a Home-Based Business, an informal site plan (does not need to comply with the requirements found in Article XVIII Site Plan Review) or plot plan must be submitted for review and recommendation by the Marion Township Planning Commission. The site plan shall be to scale and need only illustrate the following;

- 1) Owner's name, parcel identification (tax ID#) and address
- 2) Property lines with dimensions
- 3) Existing and proposed structures with dimensions indicating the location(s) and square footages to be occupied by the Home-Based Business
- 4) Location of driveways, off-street parking areas & delivery and storage areas
- 5) Proposed landscaping/screening in association with any parking to minimize negative impacts on nearby properties,
- 6) The location, character, and dimensions of any structural additions or modifications to an existing dwelling or accessory structure to accommodate the Home-Based Business.
- 7) Lot or parcel identification (address and tax ID#), size of lot or parcel dimension of lot lines, location of structures on adjacent lots or parcels within two hundred feet, abutting streets or roads.

B. In addition to the information required in Section 17.32 and the site plan described above, the applicant shall submit a detailed description of the nature of the Home-Based Business, which shall clearly specify the following minimum features:

- 1) A detailed description of the character of the Home-Based Business including but not limited to the service or product offered and the typical daily schedule of activities of such business.
- 2) The type and frequency of vehicular traffic to be generated by the Home-Based Business. The maximum number of vehicles to be parked or otherwise located outdoors including vehicles owned or used by residents of the dwelling and employees of the Home-Based Business.

3) The number of full-time and part-time employees of the business and the frequency at which such employees will be present at the site.

- C. The Planning Commission may require additional information if it determines the character of the project, site or surrounding conditions necessitates further investigation, allowing it to make a sound decision on the application.
- D. Any approval of a Home-Based Business, and any permit issued for such occupation, shall clearly delineate any conditions upon which such approval is granted including any conditions pertaining to the number of employees, outdoor parking of vehicles, and related operational features.



**Section 6.14**

**Home Occupation**

The regulation of Home Occupation as provided herein is intended to secure flexibility in the application of the requirements of this Ordinance. Home Occupation is permitted as an accessory use to the principal residential use of a lot, a zoning permit for such an occupation is not required. Such flexibility is not intended to allow the essential residential character of residential districts, in terms of use and appearance, to be changed by the occurrence of non-residential activities. Home Occupation shall satisfy the following conditions. These regulations do not apply to farms.

- A. The Home Occupation shall be clearly secondary and incidental to the use of the dwelling as a place of residence, and shall not result in a change to the essential character of the premises including both the dwelling and yard areas. Home Occupation be conducted in such a manner that, except as otherwise allowed by the provisions of this section, there is no external evidence of the Home Occupation operation except for the occasional visits by customers or clients numbering no more than 10 visits every 7 days.
- B. Accessory structures used for business purposes shall conform to Section 6.07 Accessory Buildings and Structures.
- C. Refuse generated by the Home Occupation shall be safely and properly disposed of in a safe manner in full compliance with all federal, state and other governmental requirements of any such materials.
- D. Home Occupation shall not result in the creation of conditions that would constitute a nuisance to neighboring property owners and the Township as a whole. Any machinery, mechanical devices, or equipment employed in the conduct of a Home Occupation based business shall not generate noise, vibration, radiation, odor, glare, smoke, steam, or other conditions not typically associated with the use of the dwelling for residential purposes.
- E. A resident of the dwelling on the lot shall be actively and personally engaged in and responsible for all Home Occupation operations. No employees shall be permitted, other than members of the immediate family residing in the dwelling unit.
- F. All of the activities on the property related to the occupation, except horticultural, shall be carried on indoors including the storage of materials, goods, supplies, refuse and waste materials, equipment, vehicles, trailers or products related to the occupation.
- G. Traffic generated by the combined home and Home Occupation shall be no greater in volumes than would normally be expected in a residential district, and such traffic shall be limited to passenger vehicles, delivery vans and similarly sized vehicles. Any need for parking used by such Home Occupation shall be met off the street and motor vehicles may be parked in an existing driveway if it is of sufficient size. No additional off-street parking demand shall be created.
- H. The Home Occupation shall be conducted within the dwelling unit, attached garage or accessory building.
- I. The Home Occupation shall not occupy more than twenty-five (25%) percent of the total gross floor area of said residential dwelling including the basement.
- J. Storage of combustible, toxic or hazardous material associated with the Home Occupation shall be done in a safe manner in full compliance with all federal, state and other governmental requirements concerning the use, handling, transport, storage and disposal of any such materials.

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- K. The Home Occupation shall comply with all applicable federal, state and local laws, including, but not limited to, laws regarding licensing, occupational health and safety, and the environment.
- L. Home Occupation approval is not transferable with the sale, rental or lease of the dwelling unit.
- M. Home Occupation are not allowed signage.
- N. Art and music instruction shall be classified as a permitted Home Occupation subject the standards of this Ordinance
- O. Prohibited Home Occupations include but not limited to: service, repair or painting of any motorized vehicle, motor vehicles, trailers, boats, personal watercraft, recreation vehicles and snowmobiles, small engine repair, lawn equipment repair, and equipment repair.



### CRYSTALWOOD ESTATES ROADS SPECIAL ASSESSMENT

Bob Hanvey said interested parties will need to ask for an extension of the previous concept approval. The three homeowners' associations and Dan Lowe will need to agree on moving ahead with acceptance of the roads as public. Bob Hanvey will schedule a meeting with the three HOAs and Dan Lowe. He will also contact Rick Elkow about planting trees on Mr. Lowe's property line.

### HOMETOWN VILLAGE PHASE III PURCHASE AGREEMENT

Bob Hanvey said he talked with Aaron Currie regarding this property; he hasn't heard back yet.

### DISC GOLF COURSE

The township has been approached by someone who would like to help reorganize the course to include the additional 10-acre parcel owned by the township and make other upgrades. Les Andersen motioned to authorize up to \$3,000 for this project. Greg Durbin seconded. Roll call vote: Beal, Andersen, Stokes, Durbin, Lowe, Hanvey, Lloyd—all yes. **Motion carried 7-0.**

### LANDSCAPE NURSERY OPERATIONS

Bob Hanvey provided the board members with several documents related to Landscape Nursery Operations. They discussed the differences between nurseries and landscape operations, how the number of employees or lot size should be considered, etc. The board members agreed that "nursery" and "landscape operation" should be separated. For example, a lawn mowing service is different than selling landscape supplies. After discussion, it was agreed that a lawn mowing or snow plowing/salting service would require all equipment be stored inside, can only be located in Rural Residential or Suburban Residential zoning districts, and would not include sales. Bob Hanvey will give this information to the Planning Commission for discussion.

### CORRESPONDENCE & UPDATES

Dan Lowe said he has heard that the Peavy Road bridge is going to be closed. He feels there should be a "no trucks" sign posted, and Allen Edwin needs to be instructed not to use the bridge. Scott Lloyd said the township should confirm the rumors.

There is an MTA Livingston meeting on Recreation Marihuana on Tuesday, April 30 at 6:30 pm.

An email was received from MDOT regarding the lifting of spring weight restrictions on state highways.

### CALL TO THE PUBLIC

No response.

### ADJOURNMENT

Les Andersen motioned to adjourn at 9:10 pm. Tammy Beal seconded. **Motion carried.**

Submitted by: S. Longstreet

\_\_\_\_\_  
Tammy L. Beal, Township Clerk      Date

\_\_\_\_\_  
Robert W. Hanvey, Township Supervisor      Date

## **CALL TO THE PUBLIC**

Jamie & Brandon Finch, 606 E. Coon Lake Rd., were present in response to a letter they received from the zoning administrator regarding their home business. They are asking the board to clarify what they can and cannot do. Mrs. Finch said that no business is conducted in the house; it's all done off-site. Their equipment is stored in the garage with the exception of the trucks and trailers. Bob Hanvey said that the property is in ERS-1 zoning district, which doesn't allow Class II home occupations. Les Andersen asked if the subdivision has rules regarding commercial vehicles. Bob Hanvey said the HOA is aware of the business. Mrs. Finch said many of the neighbors use their lawn service. Jim Andersen, Planning Commission member, said there was no public complaint, the business was noticed by PC members. Dan Lowe said the property needs to look residential, no more than two trucks and trailers. Scott Lloyd and Duane Stokes both agreed this was a Class I home occupation. Greg Durbin said they should get rid of the tubing that's stored outside, and keep it looking residential.

This is from the minutes for the June 13, 2019 Board of Trustee's meeting regarding the letter I was asked to send to these folks about the Home Occupation.

## Zoning for Home Occupations

Filed under Office & HR.

The numbers are in, the technology is here, the benefits are clear--and the move is on. Business persons are taking up a new eco-sensitive way of doing business: They're staying home!

At an Earth Day fair in Evergreen, Colo., we had a sign above our booth that proudly stated the contribution to Mother Earth: "No commute, no pollute." When you add other social benefits, such as added neighborhood security, and better family and community cohesiveness, you have a compelling reason to take a new look at zoning regulations that often restrict such resourcefulness.

What we propose is the simple language of reason. It doesn't have to be dripping with legalese. Those setting up a home-based business need to understand the rules, and those that live next door need to know they are protected. It's that simple.

Wording is the key to zoning regulations that work in everyone's best interest. I suggest beginning with clear, simple definitions. For example:

### **Home Occupation**

*Any occupation or business use, full- or part-time, conducted within a dwelling or an accessory structure, or both, by a resident of the property.*

We need to start somewhere. Defining what we mean by a home occupation is very important. This wording covers those communities that allow 'accessory structures' on residential property. If there is no such authority in your area, take out mention of accessory buildings.

I recommend taking out the common zoning phrase 'and is clearly incidental to the residential use' as it weakens the whole ordinance by prefacing it with an indefinable and unenforceable definition.

### **Concept of Ordinance**

*This ordinance establishes the criteria for home occupations based on the impact of the business on the integrity and character of the neighborhood.*

That's fancy wording for quality of life and value of property in our backyards. That's all we're talking about.

### **Ordinance Enforcement**

*This ordinance provides the definitions of compliance and is meant to be used for reactive enforcement. It is the responsibility of surrounding homeowners to bring offenders to the attention of the planning and zoning department or homeowners association for determination and enforcement.*

The key word to understand there is "reactive." No zoning department or homeowners association is going to go around inspecting homes for compliance. The only time enforcement becomes an issue is if someone complains.

### **General Home Occupation Standards**

*All home occupations shall comply with the following:*

**A. Appearance.** *There shall be no exterior evidence that a building is being used for any purpose other than a dwelling or an accessory structure.*

In other words, if you drive by, there is no indication that anything other than residential activity is taking place. No neon signs; no unusual paint jobs; no golden arches. This protects the visual quality of life in the neighborhood.



**B. Activity.** *The home occupation shall not cause any odor, dust, smoke, vibration, noise, heat glare or electromagnetic interference, which can be detected at, or beyond, the property line.*

You could really stop here and have a pretty sound ordinance. But many find merit in writing down a few more specifics. For example:

**C. Parking.** *Off-street parking will be provided by the homeowner, where necessary, to handle all vehicle visits authorized under specific traffic classifications. If there is a question whether off-street parking is necessary, the zoning administrator shall make the determination.*

If parking is needed, it is the full responsibility of the business to provide such parking off public right of ways, even out of sight, if necessary.

**D. Storage.** *There will be no outdoor storage of equipment, material or stock. There will be no storage on the premises of explosives or highly flammable or extremely hazardous materials as defined by the U.S. Environmental Protection Agency.*

**E. Operator.** *The business must be conducted by a full-time resident of the property.* The concern here is that if you are not a full-time resident, you may not be attuned to the community that surrounds you.

**F. Square Footage Usage.** *There is no limit to the amount of square footage that can be used within the residential structure for business activity.*

It is very common for communities to restrict floor space for business use in the home, but I have to ask why. How much space you allocate to business and how much to living does not affect the quality of life of your neighbor, plus it is next to impossible to enforce. If you abide by A and B, who will ever know or care?

**G. Number of Occupations.** *More than one home occupation may be conducted on the premises; however the combined business-related impact of all home occupations shall be considered when evaluating the terms of this ordinance.*

Again, I have to ask why communities would feel the need to restrict the number of businesses one can conduct in his or her home. If you don't disturb the quality of life in your neighborhood, it's unimportant. The key word in this clause is 'combined.' If all the noise, vibration, etc. of the combined businesses does not disturb neighbors, that's what counts.

**H. Types of Residential Structures.** *Home occupations are permitted in all types of residential structures. If an occupation is located in a townhouse, condominium, multiplex or apartment dwelling, the zoning administrator may restrict business visitor parking to specific hours.*

Where you live, whether an apartment or a private mansion, should not affect whether you can work from home. In the second part of this two-part look at zoning ordinances, I'll take a look at one final issue that needs to be addressed in these ordinances:

**neighborhood traffic.**

*[Steve Lang is the founder of the Mount Evans Home Based Business Association in Evergreen, Colo. Steve presently operates a no-traffic, man- and earth-friendly, home-based business and can be reached at [elkbugle@aol.com](mailto:elkbugle@aol.com).]*

Lengths of private roads should be determined by the individual parcel size and shape of area in each given circumstance, which then determines the individual homesite with the standard parcel size of a minimum of two acre sites. I obviously prefer two acres versus 1.5! Private roads = 4 or more residential homesites. I cannot determine a specified total length because I feel it depends on the parcel size and shape and surrounding natural land issues.

Cul-de-sacs, dead end roads and private roads all should be designed and constructed in accordance with the current engineering standards and specifications of LCRC for platt development.

Requested shared driveways are a matter between the owners of the parcels ( but, ... initial, normal building sites should only service one driveway per one residential homesite) ... The issues stemming from splits and future changes should then be established by the buyer and the owner affected by the change in the split ... and their agreed upon decision then to be approved by show of necessity and proper intent to form the additional driveway to the township as demonstrated by the request.

The distance between driveways should be determined by the adjoining property and set back measurements. One or two driveways depends upon the parcel size size, location, shape and access capabilities. Distance between the two driveways should be calculated for safety and visual pleasantness to/ for the township.

I prefer to have all of these issues handled through the specific engineering standards and thus be readily capable for updating and unified changes.