

**MARION TOWNSHIP PLANNING COMMISSION**  
**REGULAR MEETING MINUTES**  
**AUGUST 27, 2019 / 7:30PM**

**MEMBERS PRESENT:** LARRY GRUNN – *CHAIRPERSON*  
BOB HANVEY  
CHERYL RANGE – *SECRETARY*  
BRUCE POWELSON – *VICE CHAIR*  
JAMES ANDERSON

**OTHERS PRESENT:** DAVE HAMANN – ZONING ADMINISTRATOR  
PHIL WESTMORLAND – CARLISLE WORTMAN

**MEMBERS ABSENT:** JOHN ENOS – PLANNER WITH CARLISLE WORTMAN

**CALL TO ORDER:**  
Larry Grunn called the meeting to order at 7:30 p.m.

**PLEDGE OF ALLEGIANCE**

**APPROVAL OF AGENDA:**  
*Regular Meeting Agenda for August 27, 2019*  
Bruce Powelson motioned to approve the agenda. Cheryl Range seconded. **Motion carried.**

**APPROVAL OF MINUTES:**  
*Approval of the Regular Meeting Minutes for July 23, 2019*  
Bruce Powelson motioned to approve the minutes from the July 23, 2019 meeting with the grammar and spelling changes. Cheryl Range seconded. **Motion carried.**

**CALL TO THE PUBLIC:**  
Tim Ryan resides at 459 East Davis. Tim Ryan asked if this would be the time to discuss his concerns regarding The Home Occupation Language. Larry Grunn suggested waiting until they close “Call to the public” and start the Public Hearing.

## **PUBLIC HEARING 8-27-2019:**

### ***TXT #03-18 Home Occupation Section 6.14 and 17.32.***

Tim Ryan resides at 459 East Davis. Tim Ryan said that he feels that we are currently living in an area that is under considerable assault. Home Occupations can easily become a nuisance to others living in the area. How does the Township plan on protecting the people being negatively affected by these situations? The new people living in Marion Township have just as much of a right to be here, as the people that have lived here for decades. All voices involved should be treated with equal consideration. Tim Ryan continued with saying that he took a look around the Township and noticed that there are several flag lots and “L” shaped lots throughout the community. Allowing a homeowners/business owners to have eight vehicles parked in their driveway is excessive, especially when you add in the UPS trips, the post office deliveries and other residents using that same road. That is a lot of traffic. Some of these business may start out small but what happens when they start growing? Tim Ryan then asked a list of questions that he previously prepared.

- *When does a Home Occupation become a home-based business?*
- *In residential districts, are accessory buildings allowed, housing a business, without a dwelling?*
- *What is meant by outside storage of materials? What is included?*
- *Does this mean trailers? What size? How many? Do they need screening?*
- *Are they to be located away from the road frontage?*
- *The home based business is defined as ‘clearly incidental’ to a dwelling.*
- *What exactly does that mean?*
- *Is there a set of standards that show what is ‘incidental’?*
- *Traffic counts show 12 visitors, deliveries etc. per day. That’s one every 20 minutes, 12 visits equals roughly one every 20 minutes, in 8 hours. Does the traffic count include employees arriving and departing?*
- *What happens when the traffic becomes too much?*
- *What are the property tax ramifications for home-based businesses?*

Wendy Busick resides at 4746 Hawthorne Drive. Wendy asked what the purpose of having a Public Hearing. Dave Hamann answered and said, anytime this body wants new verbiage, they have to get the residents input prior to approval. If the Planning Commission is then happy with the proposed language after the Public Hearing then it will go to the County Planning Commission for review. Then it will go to the Marion Township Board of Trustees. This is what the statute at the State requires.

Wendy said that according to the State Law, that used vehicle dealer in Marion Township cannot operate in its current location. The Township even informed the State that they were not currently in compliance. Wendy is also concerned about the maintenance costs on this private road, with dozens of trucks traveling on that road all day. Does this cost belong to the homeowners on this road or the Township? Wendy feels like all of the “teeth” were taken out of the previous language, which referred to a Class 1 and a Class 2. She does not agree with any of this new language. She believes that if someone wants to run a business in a residential area then they should have to actually be living on the property. Not just running their business on it.

Larry Grunn read a letter that was drafted by Jean Root; a Township resident.

Greg Busick resides at 4647 Hawthorne Drive. Greg Busick asked if the home based business verbiage was taken from the previous Class 2 language. Larry Grunn responded with “yes”. Greg then stated that on Item #1 on page 1 and section K, on page 2 are contradicting to one another. Greg thought that a Public Hearing was going to be a detailed explanation of the new verbiage.

Closed Public Hearing.

## **NEW BUSINESS:**

### **1) *TXT #03-18 Home Occupation Section 6.14 and Home Based Business Section 17.32 finalization.***

Dave Hamann said that Section 6.14 would replace the Class 1 Home Occupation verbiage. Dave made the language changes that were talked about at the last meeting such as on page 2 – letter M changing the verbiage to “Occupation related signage”. Dave explained that we will need to consider having a non-conforming for any previous Home Occupations that currently have signage on their parcel. Tonight we also need to discuss the items that are outlined in red, which were left over from the previous meeting. We have now gotten input from the residents that attended tonight’s Public Hearing, so you Commissioners need to decide, where we go from here.

Jim Anderson said that the verbiage discussing radioactive materials, was created to protect our community from radioactive chemicals of any kind that one could be disposing of, such as incinerators that burn medical waste, or a business that throws out old smoke detectors. Bruce Powelson asked what we do about someone that has a business that collects smoke detectors, so they can properly recycle them. Jim Anderson said that this language prevents and protects us from people that are actually dumping waste on their property within the Township.

Bruce also stated that on page 1 – item# 2, he believes that eight vehicles seems like a lot of vehicles to allow a business to have on their property in a residential area. Jim Anderson said that he personally has four vehicles on his property, meaning he is already half way there. Plus if someone has a few kids that are driving and have vehicles, which is going to add 1-3 more vehicles being parked in the driveway. Wendy Busick asked Jim if his parcel was at least two acres. Jim said no it is not, but he also is not running a business out of his home. Greg Busick said that having eight cars parked in the driveway (not a garage), causes it to look like a funeral procession.

Dave Hamann explained that the applicant will still have to go through the Special Use process and the amount of vehicles being parked and stored on site will be reviewed at that time.

Bruce said on page three, we should require the applicant to provide an overview/aerial map indicating lot lines and contour lines, which would be turned in with the plot plan.

Bob Hanvey said that both pieces of language specifically state that the occupant must live on the property. Wendy said that is not what is currently happening within the Township. There are three business on Brighton Road with odd buildings located on the parcel and no one currently living them. She thinks that this language should be more specific and black and white, so the applicant is very clear of what is expected of them.

Jim Anderson suggested that we answer Tim Ryan’s questions from the Public Hearing.

- *When does a Home Occupation become a home-based business?*

Dave said, when they are no longer invisible to their neighbor and when they have more than one employee.

- *In residential districts, are accessory buildings allowed, housing a business, without a dwelling?*

Dave said, No, only those that are Right to Farm and are 100% Ag related. Bob Hanvey said that churches and pole barns for agricultural use, are the exceptions to this.

- *What is meant by outside storage of materials? What is included?*

Dave said that anything that is related to the business and that they must have proper screening.

- *Does this mean trailers? What size? How many? Do they need screening?*

Dave said, yes but this will be situational of course. Each applicant has to prove that it is done correctly, with proper screening and is not a nuisance to their neighbors.

- *Are they to be located away from the road frontage?*

Dave said yes, when an applicant requests a Special Use Permit, you make the employees park away from the driveway and provide adequate screening. The applicant must provide an adequate space for employees to park that is not in the driveway.

Cheryl Range asked about the landscaping company off of Coon Lake Road. Dave said that they are a pre-existing situation. Larry Grunn asked how they could possibly fall under pre-existing. Dave said that they are similar to the pre-existing situation off D19. The Board of Trustees instructed me to send the landscaping company off Coon Lake Road, a letter violating them. Then when this company came to the Board meeting, the Board allowed them to continue because they were able to convince the Board that they were not going to be a nuisance to the neighbors. We then realized that they don't even fall under a Class 2 anyways because they are in an ERS district. Dave said that the Board needs some more verbiage in place, which will then provide some direction on Home Occupations, in order for anyone to move forward on this.

- *The home based business is defined as 'clearly incidental' to a dwelling. What exactly does that mean? Is there a set of standards that show what is 'incidental'?*

Bob said if there is a specific word that was not defined in our language, then a dictionary would be used to determine the meaning of the specific word in questions.

Bob asked if a hair salon would be allowed and Dave said yes, they would technically be a class 1. Bob then asked about a dog grooming business.

- *Traffic counts show 12 visitors, deliveries etc. per day. That's one every 20 minutes, 12 visits equals roughly one every 20 minutes, in 8 hours. Does the traffic count include employees arriving and departing?*

Bob said that the Board and applicant would come up with a number that best fits the situation.

- *What happens when the traffic becomes too much?*

Dave said that this would be complaint driven.

- *What are the property tax ramifications for home-based businesses?*

Bob said in most cases, none. The Tax is based on the value of the home, considering the highest and best use of the property. All uses are considered to be a "single family home". However, the more investments made on the property, the higher the property value.

Cheryl Range thinks that we should spend more time digesting this information and the changes and discuss further next month. Jim Anderson said that he is happy with the current language and would like to send it on for review, along with the change that Bruce suggested about requiring an aerial view be submitted with the plot plan. Jim thinks that we have answered all of the questions and addressed all of the concerns and would like to send this to the County.

Dave Hamann thinks that no everyone is going to fit within these parameters and that each Special Use Permit is going to be unique.

Cheryl Range made a motion to digest this information and bring it back next month with the changes. Bruce Powelson seconded. Roll Call: Bruce YES, Jim NO, Bob YES, Larry YES, Cheryl YES. **Motion carried. 4-1**

## **OLD BUSINESS:**

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

Phil said that they created these standards so more detail is available to the applicant regarding when to submit their plans, to whom and what exactly is expected to be in the plans. Section 12 explains that there are no shared driveways allowed within the Township and that private roads are allowed to have 2-5 access points, with no more than five units that are pre-existing/non-conforming. Cheryl Range asked how this would affect the Markarian situation on Cedar Lake Road. Phil said that it is going to be a case by case situation but there are still standards that each applicant will have to follow. There will still be criteria that needs to be met and although it may not be as easy as one would hope, it is still possible.

Bruce Powelson asked if a cul-de-sac can be considered a circular driveway. Jim Anderson said that a driveway only has one access point. Dave said that the County Road Commission will still issue two driveways, even if our verbiage says they can only have one. Bob asked if we should mention TXT 6.18 ordinance in the Standards. Phil said that the Township has a lot of parcels with more than one driveway. He thinks we will have a very hard time trying to legislate the number of driveways a person can have.

Dave Hamann passed out the “proposed land division” language from Boss Engineering. Sometimes things don’t match up in Zoning ordinances and General Law ordinances. We don’t have good consistency with the Land Division act and General Law ordinances.

Bob Hanvey said that on page 11 of the Zoning ordinance handout, the General Ordinance says “*or can be served by a proposed easement*” but the Zoning Ordinance says the opposite. The Land division act says that you can split your parcel but that doesn’t mean that you would be able to build on it. Bruce Powelson asked if they would be able to go to the ZBA for a variance. Dave Hamann said they could go to the ZBA but he is not sure what their practical difficulty would be. It is self-made because they are the ones that decided to split their parcel.

Bob Hanvey asked a questions regarding page 1 – section 2 – letter B. How is a review from the Zoning Administrator different from a review from John Enos and Phil Westmorland? Phil said until all the involved agencies have reviewed the same site plan, then it should stay on the hamster wheel. Once it is reviewed by everyone/all agencies, then nothing should get changed. That way everyone is reviewing the same exact site plan. No changes should be made until all input is given. Once everyone has reviewed and approved with/without changes then the applicant can then make the suggested changes and re-submit with corrections. Bob asked why it needs to come to the Planning Commission if John Enos and Phil Westmorland already approved it. Dave said that the Board is looking at different things above and beyond the typical things that John and Phil can review ahead of time.

Bruce Powelson said the verbiage on page two – letter C is very confusing. Phil said that have not proof-read this yet and have not made any grammar or punctuation corrections just yet. They first want to make sure that everyone is happy with the content and the flow of everything first.

Bob said on page two, he really likes the pre-application meeting but is not sure what to tell them to bring to the pre-application meeting. Should we tell them specifically what to bring or prepare. Dave said to give them a time limit and tell them to bring anything that will help explain their plan or bring an overview of their site

plan. Phil said not to be too specific. The applicant will want to get some ideas and direction first before they invest a lot of money on site plans, inspections, etc.

Dave said he would like the Engineering Development Standards and the Zoning ordinances to compliment one another.

Chery Range motioned to send the Engineering Development Standards to the Board of Trustees for their input. Larry Grunn seconded. **Motion carried.**

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

Cheryl Range motioned to postpone discussion on this until the September 24<sup>th</sup> meeting. Jim Anderson seconded. **Motion carried.**

### **3) Wellhead Protection Overlay**

Cheryl Range motioned to postpone discussion on this until the September 24<sup>th</sup> meeting. Bruce Powelson seconded. **Motion carried.**

### **CORRESPONDENCE AND UPDATES:**

Dave Hamann announced that there will be a class discussing Site Plans on October 21<sup>st</sup> at the Township hall. Pizza will be served starting at 5pm and the seminar starts at 5:30pm. This is open to all Marion Township employees.

### **CALL TO THE PUBLIC:**

### **ADJOURNMENT:**

Larry Grunn made a motion to adjourn the meeting at 9:46pm. Bruce Powelson seconded. **Motion carried.**