

Waverly Township
Planning and Zoning Minutes
42114 M-43 Hwy.; Paw Paw, MI 49079
March 8, 2010

Vice-Chairman Tom Fleetwood called the meeting to order at 7:00 p.m. and asked the Planning and Zoning members to introduce themselves; Anne Giles, Diane Julien, Tom Fleetwood, Tony Millek, and Louis Barkovich. Also present were; Audience 2. Tony led the Pledge of Allegiance.

ABSENT: LaPine and Wilcox.

AGENDA:

Giles asked that review of 7A Minor and Major Home Occupation be added to Old Business, which will move 33 foot right of way to 7B and 7C Van Buren County Planning Commission.

MOTION: Millek moved to approve the agenda as amended. Second by Julien. Voice vote, all yes, motion carried.

MINUTES:

Corrections to the minutes: Page 3 second to last paragraph Barkovich is spelled wrong and period after approved on first paragraph on last page. Office Assistant gets approval from Julien before Commission sees the draft minutes. Under Millek's report of Township Board meeting item C. Mike Toth came to "two meeting" needs an s after meeting and "public need" needs an s on page one.

MOTION: Barkovich moved to accept the amended February 8, 2010, minutes as corrected. Second by Giles. Voice vote, all yes, motion carried.

PUBLIC HEARING: None scheduled.

TOWNSHIP BOARD REPORT:

Millek summarized the March Township Board meeting:

1. Aric Nesbitt from Lawton is running as the State Representative for our district.
2. Dust control process will be reviewed.
3. Drain on east 36th Ave. near 37th Street may need tube replacement costing \$160,000. Reviewing cost estimates by the VBCRC.
4. New phone system proposed for township hall.
5. Don Mastenbrook owns property at M-43 and M-40 wants to start a Farmer's Market.
6. Awarded contracts to Clark's Lawn Care for Glendale Cemetery and Hall and Steve Danger for Austin Cemetery.
7. Scanner being added to the copy machine.
8. Approved the 2010/2011 township budget. New road construction had a carry forward. Supervisor getting bids on 35 ½ Street and 36th Street for possible prepare/pave.
9. Sound system changes are still being reviewed.
10. County Commissioner Mike Toth announced a grant award of \$5,600 for inter-governmental cooperation for coordinated effort to develop the County Master Plan, which will also address road issues. Regional area is Berrien, Van Buren, and Cass.

UNFINISHED BUSINESS:

- a. Review Minor and Major Home Occupation.

Giles typed information for the Commission's consideration from the information compiled from gathered information. Millek read the information for Section 4.14 and Commission discussed and made changes. (See attachment A.)

Under State law, residences may be used for fine arts. Pole of commissioners on multi-family to leave it and say Minor occupation shall be allowed in all districts and Major where defined as a special use.

Section 4.14.03 regarding Major Special Use requirements: Accessory building use shall not be greater than 50% of the floor area of the residence.

Pole of Commissioners to continue discussion tonight in order to complete suggested changes to F and definitions. Discussion continued.

MOTION: Millek moved to table the remainder of the discussion on home occupation until the April meeting. Second by Barkovich. Voice vote, all yes, motion carried.

- b. Review of the 33 foot right of way:

Fleetwood asked if any commissioners drove past the property of VanDenBelt on M-40. Fleetwood had no problem with what he saw. Millek explained where to find VanDenBelt on M-40 and Doperalski on M-43 as examples of multi-houses on one driveway.

MOTION: Millek moved to table the remainder of the discussion on b. Review of 33 foot right of way; c. Van Buren County Planning Commission representative; and Future Business: Accessory building on lots without residences until the April meeting. Second by Julien. Voice vote, all yes, motion carried.

- c. Van Buren County Planning Commission:

The County Commission has requested township board representatives on their board as they review the County's Master Plan.

NEW BUSINESS: None.

PUBLIC COMMENTS: The audience can participate throughout the meetings. Foerster said the Commission is doing an outstanding job. Forester asked if the Commission was ever going to take action on Southwest Michigan Planning Commission comments/recommendations on the township Master Plan. No one on the commission remembers. Fleetwood said commission will look at it. Foerster still wants the township to identify prime farmland for the Preservation Program at the County. Foerster said by not adopting this program, the township may be preventing a farmer from signing up for consideration to sell their property development rights. Millek said the previous township board choose not to include Farmland Preservation on the map in the Master Plan because there might be a financial cost to the township. Fleetwood said 2009 and 2010 showed a drop in farm land prices average of \$3,750.

P&Z COMMISSIONER COMMENTS: Barkovich said John Haskin's corner needs a street light on 38th Ave. and M-40 Hwy. Millek said it must come before the township board because the township would pay the electricity for the light.

MOTION: Motion by Giles to adjourn the meeting. Second by Millek. Fleetwood declared the meeting adjourned at 9:45 p.m.

Respectfully,

Fay A. Dorr,
For the Planning and Zoning Commission as per the tape recording 3/8/10.

Section 4.14 Minor and Major Home Occupations

Section 4.14.01 Intent. It is the intent of this Article to recognize that certain commercial activities can be operated within a residential dwelling with no or minimal adverse impact upon surrounding neighbors. Such minor home occupations may be carried out ~~within~~ where defined as a principal permitted use ~~in an agriculture / residential district~~ (will need to be changed in all districts as defined). Minor home occupations are characterized as computer and telephone-based businesses where there is no or limited customer or client traffic into the home occupation. Examples of minor home occupations include, but are not limited to, real estate agent, insurance sales agent, consultants, financial planners, stockbrokers, instructors of a craft or fine art such as a teacher with musical or dancing instruction limited to six (6) pupils at a time, etc.

It is also recognized that the conduct of other business operations as home occupations are desirable to selected occupants of dwellings in agriculture ~~for~~ residential districts, however, such business activities may cause increased traffic, noise, outdoor storage requirements, etc., in the residential area but if controlled, may be compatible with other residents. Major home occupations are characterized as those businesses which provide customer or client services on pre-established ~~or published~~ schedules of store or services hours or provide such services on a regular scheduled basis in the residence. Example businesses include physical therapy centers, doctor and dentist offices, offices of lawyers and similar professions, and other similar business. Where allowed as special uses approved by the Planning Commission reasonable conditions may be placed on the business operation to assure compatibility of the business operation with immediate residential area needs.

Section 4.14.02 – Minor Home Occupation Permitted By Right. A minor home occupation meeting the definition and standards of this ordinance shall be permitted by right only in those districts where stated. The standards are as follows:

- A. Minor Home occupations shall be allowed only in principal use ~~single-family~~ residential dwellings.
- B. No person other than household members of the family residing on the premises shall be engaged in such occupation (plus one additional employee.)
- C. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25% of the floor area of the dwelling unit shall be used in conducting the home occupation.
- D. There shall be no change in the outside appearance of the building or premises or other visible evidence of the conducting of such home occupation other than one (1) sign, not exceeding four (4) square feet in area, non-illuminated, and mounted flat against the wall of the principal building.
- E. No traffic shall be generated by such home occupation in greater volumes than would be normally expected in any agricultural ~~for~~ residential zoning district and any need for parking

generated by the conducting of such home occupation shall not exceed normal single family parking requirements.

- F. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or cause fluctuations in line voltage off the premises.
- G. Pursuant to the terms of the Michigan Zoning Enabling Act, a single family residence may be used by an occupant of that residence to give instruction in a craft or fine art. Such activities are exempted from the definition of home occupation pursuant to the terms of state law.

Section 4.14.03 – Special Land Use Permit Required for Major Home Occupations. A major home occupation meeting the definition and standards of this ordinance shall be permitted upon issuance of Special Land Use Permit by the Planning Commission in only those districts where stated. The standards are as follows:

- A. No person other than members of the ~~household~~family residing on the premises and up to three (3) additional persons living elsewhere shall engaged in such occupation.
- B. The use of the dwelling unit and/or accessory use building for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and the use of the residence shall not occupy more than 25% of the floor area of the dwelling unit, and any accessory building used shall not be greater than 50% of the floor area of the residence.
- C. There shall be no change in the outside appearance of the building or accessory use structure or other visible evidence of the conducting of such home occupation other than one (1) sign, not exceeding four (4) square feet in area, non-illuminated, and mounted flat against the wall of the principal or accessory use building.
- ~~C.D.~~ Hours of operation shall be reviewed by and subject to approval by the Planning Commission.
- ~~D.E.~~ No traffic shall be generated by such home occupation of a volume that would disrupt the immediate residential area, and any need for parking generated by the conduction of such home occupation shall be met by the provision of off-street parking in an amount prescribed in Section Article 11.02 – Required Off –Street Parking and Loading for the_ eCommercial business activity is-to be conducted as the home occupation in the side or rear yard located to the rear of the front building line of the residential building or in accordance with any Special Land Use permit issued by the Planning Commission.
- ~~E.F.~~ No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates a visual or audible interference in any radio or television receivers off the premises that causes a change of transmission voltage off premises.
- ~~F.G.~~ Major home occupations include, but are not limited to:
 - a. Day Care Centers, when operated as a home occupation.

- b. Bed & Breakfast Operations, when operate as a home occupation.
- c. Sale, manufacture and assembly of craft goods made on premise.
- d. Automobile repair services.
- e. Tax preparer.
- f. Beautician and/or barber.

To be added as definitions in Section 10.09 – (“H”)

Home Occupation – Minor – An occupation, profession, activity, or use that is clearly a customary, incidental, and secondary use of a residential dwelling unit and which does not alter the exterior of the property or affect the residential character of the neighborhood.

Home Occupation – Major – An occupation, profession, activity, or use that is clearly a customary, incidental, and secondary use of a permitted, accessory or attached structure of a residential dwelling unit which does not alter the exterior of the property or adversely affect the general residential use or character of the neighborhood. Major Home Occupations are evidenced by an increased amount of customer traffic, delivery or other ~~thither~~ vendor traffic, or other commercial activity which is not normally intended as a permitted use of the property, but which by their low level of activity or use do not adversely affect others.