

**Highland Township Planning Commission  
Record of the 1400th Meeting  
June 15, 2023**

**Roll Call:**

Grant Charlick, Chairman  
Kevin Curtis  
Chris Heyn  
Beth Lewis  
Roscoe Smith  
Scott Temple (absent)  
Russ Tierney  
Guy York (absent)  
Mike O'Leary

Doug Lewan, Carlisle-Wortman Associates  
Kariline P. Littlebear-Zoning Administrator

Visitors:

Chairman Grant Charlick called the meeting to order at 7:30 p.m.

***Roll Call:***

**Agenda Item #1:** Call to the Public: Opportunity for anyone to bring forward issues of interest or concern for Planning Commission consideration. Each participant limited to 3 minutes.

No comments were offered.

***Work Session:***

**Agenda Item #2:** Master Plan—Final report on visioning session

Doug Lewan, Carlisle-Wortman Associates provided a summary of the input received at the Visioning Session held on June 1, 2023. He explained that this event was the second phase of public comment, which began with the public opinion survey conducted over the summer of 2022. There will still be one official public comment period, required by law, which is the opportunity for the public and neighboring communities to react to the completed draft Master Plan, once the Township Board authorizes its release for comment.

Mr. Lewan recapped the format of the visioning session, which included a presentation on key characteristics of the township, followed by breakout sessions to allow for input on topics including residential development, business, natural features and transportation/infrastructure. Many ideas were offered, which were recorded by Planning Commission members who served as facilitators and notekeepers. At the end of the evening, every participant was offered 12 stickers to use for voting on the issues they saw as priorities. Some ideas received one or no votes, others received a lot of interest. A summary document has been provided for the record.

Mr. Lewan highlighted the top votes in each of the focus areas. He noted that the priorities identified are generally consistent with the past Master Plan and the results of the survey. One of the highest vote getters was to provide a sidewalk along Milford Road for the High School. The largest divided issue seemed to be whether to provide sanitary sewer service or not. The newest emerging interest was Electrical Vehicle Charging Stations. There was also a lot of interest in promoting agricultural businesses.

The written comments that were provided by participants were also summarized in the report. These were not available during voting, but have been provided for the record as well as photographs of the note takers sheets. Mr. Lewan stressed that consultants were not trying to lead the discussion, but rather intend to provide a complete record of the public's ideas.

Mr. Lewan then reviewed his memorandum that outlined next steps. The first step will be to take what has been learned and develop draft goals and policies, which should be available for review at the July 20 meeting. The next step would be to review and refine the Master Land Use Map and text.

He reminded the Planning Commission that although the concept of transitional lands has been introduced, that work is not complete. This is the opportunity for property owners to provide thoughts of how they would want their properties to be used in the future. It helps shape and refine the future land use map, which guides the Planning Commission and Board on rezoning questions. This exercise is slated for the August 17, 2023 Planning Commission meeting.

The goal is to keep the process moving forward, so it will be ready for presentation to the Board by the end of the year, and release for public comment and adoption in early 2024. Mr. Lewan doesn't anticipate significant changes from the existing Master Plan, given the feedback received from the public.

Mr. Charlick reminded the public that all the documents being reviewed tonight are available on the Township's website under the Planning Commission packet page. He reminded the audience that the Master Land Use plan does not implement zoning changes nor does it initiate projects. It only sets the road map for the future.

A few clarifying questions were discussed with those in attendance. Mr. Lewan explained that all public comments would be considered, although not all will be incorporated into goals and policies. Some of the concepts may not mirror the language of the comments as written by the notekeeper, but may be massaged into relevant policy statements.

**Agenda Item #3:** Text Amendment: Temporary Land Uses, Accessory Structures, Home Occupations

Kari Littlebear recapped the action from the last Planning Commission meeting. Draft ordinance language has been developed for the two ordinance issues that were settled, namely the temporary land use permits and modifications of the Schedule of Regulations. The public notice for that ordinance will be published next week for the July 20, 2023 meeting at which time the Planning Commission may offer a recommendation to the Board of Trustees based on input from the public hearing.

Two issues were tabled for further discussion, to provide more Commissioners for an opportunity to comment. These changes are still presented as redlined text and are open to further modification or could be discarded all together.

Mr. Tierney believes that the ordinances are very strict and often not clear, and rely solely on the interpretation of staff to determine what is and is not allowed for a business at home. For instance, in the case of short term rental, the staff relies on the determination of whether the owner occupies the home to decide if the use is acceptable, rather than what impacts it might have on the neighborhood. He takes

exception to requirements like the prohibition of any employees at an “at-home” business, suggesting that this is an intrusion of government into people’s rights on their property. He suggests that the ordinances should be as least restrictive as possible and focus on abatement of nuisances.

Mr. Charlick asked if parking commercial vehicles was covered elsewhere in the ordinance. He noted that Section 8.06 does not supersede other provisions. Ms. Littlebear confirmed that the intent of home occupation ordinances is to allow inobtrusive business activity, such as a lawyer who sees only a couple of clients at any time, to coexist in a residential property. It is not intended to allow for a landscaping operation with heavy equipment or a business generating significant traffic in a neighborhood.

Mr. Tierney believes the ordinance is overly broad and restricts harmless activity. He sees no harm in allowing a secretary to help do paperwork in a home office, or allowing a small business in a garage or basement. Ms. Littlebear reminded the Planning Commission that there are other sections of the ordinances that deal specifically with nuisance like noise, or limit outdoor storage and these are often relied upon for enforcement.

Mr. Smith asked how one differentiates between a home occupation as envisioned and a commercial enterprise that runs from a home, but creates a constant stream of employees and customers to and from the site and should be located in a commercial zone.

Mr. Tierney responded that the intensity of the business should be considered. The Township should not be contesting a business such as a surveyor whose property for all intents and purposes looks like any other home as you drive by. Ms. Littlebear noted that it is difficult to objectively measure when the intensity has increased to the point where it is now a probably.

Mrs. Lewis raised the question of marijuana businesses. She is concerned if the prohibition of outside employees was dropped, that might open the Township to more grow operations. There is a grow home in her neighborhood that creates issues. There is already concern of persons operating marijuana grow houses where they do not live. Ms. Littlebear explained that there are a few fully compliant home businesses growing marijuana in the Township, and many more flying “under the radar”. The federal government has initiated enforcement action on some sites.

Ms. Littlebear noted there are also cases of long term renters who should also be entitled to operate a home business.

Mr. Heyn noted that there are increasing numbers of home occupations since Covid. Mr. Tierney agreed, noting that real estate professionals are concerned about the decreasing demand for office space due to that trend.

Mr. Smith is concerned that if there are no regulations, then every parcel in the Township is ripe for commercial activity. The regulations in place were meant to place reasonable limits.

Ms. Littlebear described the nature of requests at the counter, as well as the nature of complaints. There is particular interest in utilizing accessory structures for business activities.

Mr. Tierney suggested that some small signage is appropriate at least in the acreage parcels, even if not in dense subdivisions.

Mr. Charlick asked about farm markets. Ms. Littlebear explained that farm markets are permissible in many cases with a land use permit, but the owner must demonstrate adequate parking. Parking is also an issue if we relax home occupation standards.

Mr. Heyn noted that many businesses start in the home, and there should be a way to support and encourage that.

Ms. Littlebear described the process that staff undergoes in investigating complaints about unauthorized home occupations.

Mr. Charlick agreed with the amendments proposed by staff, but has concerns about the signage. There are dense neighborhoods that are not regulated by bylaws and deed restrictions. Mr. Curtis agrees.

Mr. Lewan explained that his firm has drafted home occupation regulations for many communities. It is not unusual to allow two outside employees. He also liked the provision that allows one accessory structure to be used for the home occupation. He agrees that the movement in this ordinance is appropriate given current trends.

Mr. Lewan also pointed out that the intent statement for Section 8.6 as well as the paragraph that describes incompatible uses authorizes the zoning administrator to limit and prohibit those uses that create the appearance of a commercial corridor.

The Planning Commissioners discussed which of the elements of the amendment are acceptable to each of them: allowing outside employees; allowing signage; prohibition from altering the appearance of the home to take on a commercial characteristic; and allowing use of one accessory structure in the home business.

Mr. Tierney asked if the noise regulation included in the home occupation section was redundant since there was a general code ordinance addressing nuisance. Ms. Littlebear suggested that the nuisance ordinance was typically applied for night time noise, whereas this provision in Section 8.06 confirms that the business shall not be bothersome to the neighborhood because of noise at any time.

Mr. Charlick moved to approve the redlines for Section 8.06 except for the section regarding signs. Mr. Tierney supported the motion. Roll call vote: Curtis-yes; Heyn-yes; Lewis-yes; O'Leary-yes; Tierney-yes; Charlick-yes; Smith-yes. Motion carries (7 yes votes, 0 no votes).

Mr. Charlick polled the group about a proposed addition to the redlined ordinance to allow for two outside employees. Employee parking was discussed as a potential issue since new parking lots would also alter the appearance of a residential neighborhood. Mr. Smith cautioned against unintended consequences, when opening the door to the additional employees could lead to parking lots in front yards. Small lots with narrow frontage cannot accommodate the additional parking, and would therefore be ineligible for a home occupation with employees. Highland Township does not require permits for construction of residential driveways.

Ms. Lewis asked if there was a definition of employee. She noted an example where the employees who come and go from the residential property are employees of the business, which is not operated by the tenant. She acknowledged that there would always be scofflaws, but the Township needs to balance the concerns of the neighbors with the rights of the property owner.

Mr. O'Leary asked for clarification of the permitting process for home occupations. He wondered if the permitting process allowed oversight of parking, employees, etc. Ms. Littlebear explained that a land use permit is typically required, for which the applicant must demonstrate compliance with the ordinance regulations. Mr. Lewan noted that there are exceptions where a land use permit is not required, such as the professional who never sees clients onsite, or those who receive few deliveries. Mr. Smith noted that there are many unregistered businesses in the community.

Mr. Tierney moved to include language to allow for up to two outside employees for a home occupation. Ms. Lewis supported the motion. Roll call vote: Curtis-yes; Heyn-yes; Lewis-yes; O'Leary-yes; Tierney-yes; Charlick-yes; Smith-no. Motion carries (6 yes votes, 1 no vote).

Ms. Littlebear explained that the ordinance amendments to Section 8.03 stem from repeated requests for variances for patios at grade. These requests typically arise in the LV, Lakes and Villages Zoning District. A typical instance would come from the addition of a patio at grade at the end of an existing walkway along the home. The walkway is not required to meet a setback, whereas once attached to the new patio, it becomes a part of the patio and therefore is noncompliant. The Zoning Board of Appeals almost always approves a variance for a patio at grade.

Mr. Charlick asked if the changes would allow a homeowner to place a firepit near their property line. Ms. Littlebear noted that the location of firepits is regulated in other ways, including the fire code.

Mr. Smith asked how the ordinance would limit the size of the patio. He asked if a homeowner could pave their entire rear yard, right up to the highwater mark. In theory, the patio could be larger than the footprint of the house. Mr. Charlick noted that also raises concerns about how drainage is handled. Ms. Littlebear noted that under the property maintenance code, the property owner must manage his own runoff and correct any issues that result in a trespass of runoff.

Mr. Charlick noted that it seems that the neighbors should be giving sufficient notice to comment if something is to be built so close to the property line. Mr. Tierney agreed that given the close proximity of the homes in the lakes areas, it is necessary to consider the coverage lot by lot.

Mr. Smith asked why a patio would be considered differently than a deck. Mr. Curtis believes the Ordinance is correct as it stands, and that the Zoning Board of Appeals should continue to evaluate the requests on a case by case basis.

Mr. Charlick went on to the issue of swimming pool setbacks under subsection 8.03.A.5. Ms. Littlebear explained this was a building and safety code issue, and this stands as a clarification within the zoning code. Mr. Heyn asked if a gazebo must also be ten feet from the pool wall, which Ms. Littlebear confirmed was the case. The correction in subsection c is intended to allow a little flexibility for the placement of pools on very small lots, maintaining the prohibition of pools in front yards, but allowing some leniency for side and rear yards.

Ms. Littlebear explained that staff separated subsection 8.03.A.6 into two sets of regulations which are slightly different. Tree houses and skateboard ramps seem to have different potential impacts than play structures and trampolines. Ms. Littlebear noted that property owners are required to obtain a land use permit for even a trampoline. Planning Commissioners were surprised, since trampolines are typically considered "moveable". Ms. Littlebear explained that even a tent would technically require a land use permit.

Mr. Tierney was concerned that there was no clear instruction to the property owner that a land use permit is required for minor accessory structures like a trampoline. The presumption would be that your installation needed to comply with the rules, but did not require a specific permit. Mr. Curtis thought the permit requirement was unreasonable for a children's playset.

Mr. O'Leary noted that a better definition of a play structure is required. Mr. Charlick noted that there may be a case for differing setbacks for play structures in different zoning districts. 10 feet is too small for larger lots. Mr. Smith recalled an instance where a play structure was constructed too close to the property line, such that the swing crossed over the fence.

Mr. Charlick moved to approve the redlined amendments for Section 8.03.5 Swimming pools, with the rest of the ordinance remaining untouched. Mr. Heyn supported. Curtis-yes; Heyn-yes; Lewis-yes; Oleary-yes; Tierney-yes; Charlick-yes; Smith-yes. Motion carries (7 yes votes, 0 no votes).

**Agenda Item #4:** Call to the Public

Lynn Hansford, 1528 Middle Road asked if the changes to temporary land uses and home occupations applied to large acreage lots in residential zones. She asked if an auto mechanic could operate with two employees in a residential zone Mr. Charlick explained those uses would be restricted to industrial properties.

Ms. Hansford also asked about side yard setbacks for swimming pools in the R-3 District, which currently is subject to a 40 foot side yard setback. Ms. Littlebear explained that the pool would still be required to meet the setbacks, the amendment would allow the pool to be closer to a structure. Ms. Hansford felt a play structure ten feet from the property line would be intrusive.

**Agenda Item #5:** Committee Updates

- Zoning Board of Appeals:
- Township Board:
- Highland Downtown Development Authority:
- Planning Director's Update

**Agenda Item #6:** Minutes: June 1, 2023

Mr. Tierney moved to approve the minutes of June 1, 2023. Mr. Charlick supported the motion, which was unanimously approved by voice vote.

Mr. Curtis moved to adjourn the meeting at 9:55 p.m. Mr. Heyn supported the motion, which was unanimously approved by voice vote.

***Adjournment:***

Respectfully submitted,

A. Roscoe Smith, Secretary  
ARS/ejc/kpl