

DENMARK TOWNSHIP MEMORANDUM

To: Denmark Township Town Board
Copies: Becky Herman, Clerk/Treasurer Troy Gilchrist, Town Attorney
From: Eric Maass, Acting Town Planner
Date: May 26, 2020
WSB Project No. 015210-000, Phase 007
Request: **Certificate of Compliance Request for a Home Occupation at 14142 90th Street S**

General Information

Applicant: Matt Ruben and Antonia Ruben
Owner: Matt Ruben and Antonia Ruben
Project Location: 14142 90th Street
Existing Land Use / Zoning: Agriculture / Agriculture, A-2

Comprehensive Plan: The Denmark Township (2040) Comprehensive Plan guides this property for Agriculture land uses.

Deadline for Agency	Application Date:	04-27-20
	Submitted to Town Board:	05-01-20
	60 Day Review Date:	06-26-20

1. REQUESTED ACTION

The Applicants have requested a Certificate of Compliance (CoC) for a home occupation to allow for the operation of “Ruben Custom Sawmill and Woodworks” to operate from 14142 90th Street S. The operation involves collection and storage of logs from urban tree removals and storm damage. The collected logs are milled on a 26-horsepower gas powered bandsaw mill. Wood products are kiln dried in a small batch electric powered vacuum kiln and dried to USDA standards. The kiln is stored inside of a metal shipping container. Products are sold to the general public and professional woodworkers. Operators also consult, design, and produce custom furniture and wood products requested by the public.

2. ORDINANCE AUTHORITY

Chapter Two, Part 3, Section 2.23 of the Denmark Township Development Code states that home occupations are “Allowed in all Districts except Commercial Industrial with a Certificate of Compliance”. Furthermore, the code states that “use of a property zoned residential or agricultural for gainful employment which is a) clearly incidental and subordinate to the use of the property as residential; b) carried on solely within the main dwelling or an accessory building; c) does not alter or change the exterior character or appearance of the property; and d) created and operated by the occupant of the dwelling.

Applicable portions of Chapter Two, Part 3, Section 2.23 of the Denmark Township Development code relating to home occupations include the following:

- (3) Performance Standards. A home occupation must comply with all of the following standards:
- (A) No person, other than the residents of the premises, shall be engaged in such home occupations.
 - (B) No traffic shall be generated by any home occupation in significantly greater volume than would normally be expected from a single-family residence.
 - (C) Any sign associated with the home occupation shall be in compliance with Chapter Two, Part 3, Section 1.11 of this Development Code.
 - (D) The home occupation shall not generate hazardous waste unless a plan for off-site disposal of the waste is approved.
 - (E) A home occupation at a dwelling with an on-site sewage treatment system shall only generate normal domestic household waste unless a plan for off-site disposal of the waste is approved.
 - (F) The home occupation shall not constitute, create or increase a nuisance to the criteria and standards established in Chapter Two, Part 3, Section 1.3, Environmental Regulations.
 - (G) There shall be no outdoor display or storage of goods, equipment or materials for the home occupation.
 - (H) Parking needs generated by the home occupation shall be provided on-site.

Applicable definitions as provided in Chapter One, Section 2 of the Denmark Township Development Code are as follows:

Home Occupation: Use of a property zoned residential or agricultural for gainful employment which is:

a) clearly incidental and subordinate to the use of the property as residential; b) carried on solely within the main dwelling or an accessory building; c) does not alter or change the exterior character or appearance of the property; and d) created and operated by the occupant of the dwelling.

- Examples of potentially allowable home occupations include: office, professional service, hairdressing by occupant only, minor repair

services excluding automobile or truck repair, photo/art studio, dressmaking or alterations, and teaching/tutoring limited to individual lessons. Home occupations are not limited to this list and occupations on this list do not automatically qualify.

- Examples of uses not allowed under this definition include: auto repair and painting, barber shops and/or beauty salons, kennels for the keeping of domestic or non-domestic animals, medical offices, private schools with organized classes, tourist homes, restaurants, and retail sales. Prohibited uses are not limited to this list.

Compliance with Federal, State, County Rules and Licensure Requirements

The Zoning Ordinance requires that a home occupation comply with requirements of other levels of government.

3. Current Property Status

With the review of the requested home occupation permit, Staff noted a number of items related to the property that currently are in violation of Township Ordinances.

- A. Number of Accessory Buildings: Chapter Two, Part 3, Section 1.2(3)(A) states that *“On parcels greater than 2 acres and less than 20 acres, a maximum of two accessory structures are allowed”*. The property in question is 5.0 acres in size.

Based upon aerial imagery it appears that there are nine (9) accessory buildings currently present on the property. One of those accessory buildings, a hoop house at the front of the property is currently proposed to be remodeled to serve as a showroom of products for sale associated with the proposed home occupation.

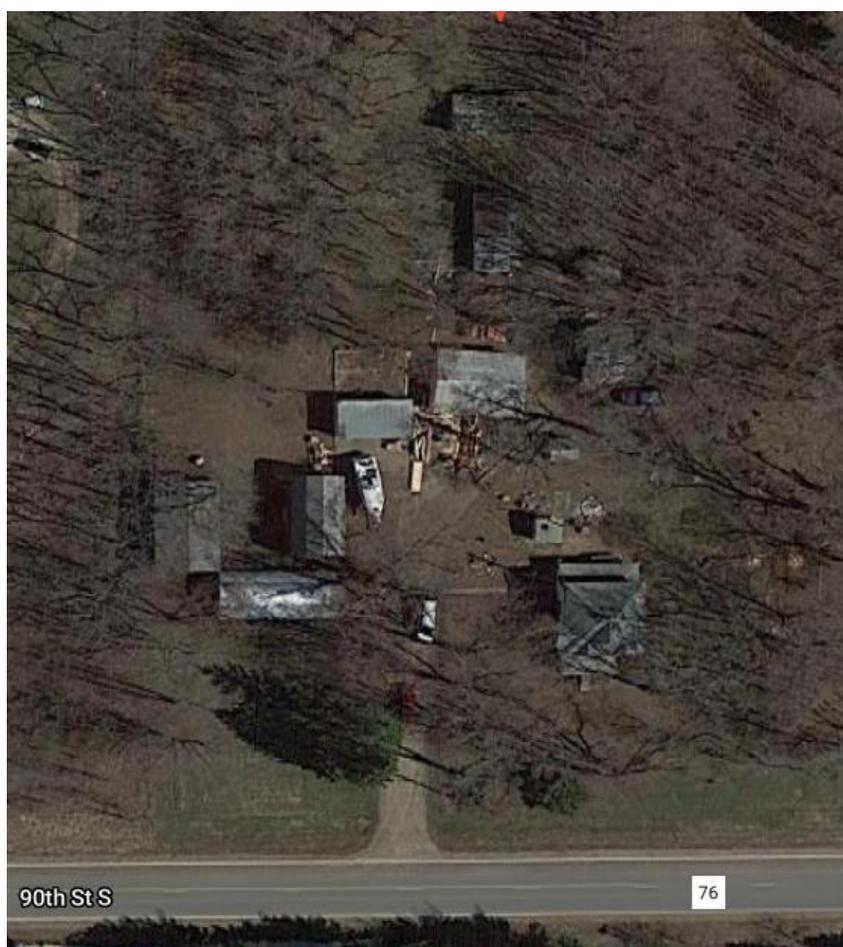
- B. Square Footage of Accessory Building Space: Chapter Two, Part 3, Section 1.2(3)(B) indicates that for properties 5.0-7.99 acres that a maximum of 2,600 square feet is allowed with a maximum sidewall height of 16 feet.

Based upon measurements taken from online aerial imagery it appears that the property has approximately 7,000 square feet of accessory building space currently on the property.

- C. Temporary Accessory Structure: Chapter Two, Part 3, Section 1.2 (2)(C) states that *“a temporary accessory structure, portable unit, or od will be allowed for a period of no longer than 30 days. An extension of said time will require approval of the Town Board.”*

The Applicant has placed on the property a metal shipping container that is used to store the electric kiln. It's not apparent that the shipping container has been secured or made permanent and has not received approval from the Town Board to be on the property for longer than 30 days.

- D. Keeping of Dogs: Staff is aware that dogs are kept at the property. If dogs are being bred and or sold for re-sale individually or in litter lots an Interim Use Permit is required.
- E. Keeping of Goats: Staff is aware that there are also goats kept at the property. Goats are allowed on properties greater than three (3) acres in size. A goat is classified as 0.1 animal units. Ordinance indicates that a minimum of two (2) grazeable acres shall be provided for each animal unit or its equivalent. If the property owner has three goats that would total 0.3 animal units and they would be required to have 0.6 grazeable acres. Livestock operations under 11 units are a permitted use in the Agriculture - A2 zoning district.



4. PLANNING CONSIDERATIONS

Provided below is an analysis of the performance standards listed in Chapter Two, Part 3, Section 2.23 compared to the proposed home occupation

- (A) No person, other than the residents of the premises, shall be engaged in such home occupations.

The Applicant has indicated that the only current or future employees associated with the home occupation is Matt Ruben and his wife Antonia Ruben.

- (B) No traffic shall be generated by any home occupation in significantly greater volume than would normally be expected from a single-family residence.

Previously the Applicant had “open house” sales but has ceased that activity as of 3/22/2020. With the application they have proposed by appointment only Monday-Friday from 1pm-7pm and Saturday from 9am-4pm and limited to no more than four customers per day. Four customers in a day would generate an additional 8 vehicle trips per day from the property in addition to the typical traffic generated by those living at the property.

- (C) Any sign associated with the home occupation shall be in compliance with Chapter Two, Part 3, Section 1.11 of this Development Code.

The Applicant has an existing sign adjacent to 90th Street S. The Sign reads “Ruben Custom Sawmilling”. Signs less than ten square feet in area do not require a permit except those that require a Conditional Use Permit, or are specifically allowed within the Township development code. The exact size of the existing sign was not provided but appears to be less than ten square feet in size and is hung from an iron post. The sign does not appear to be lit in any fashion.

- (D) The home occupation shall not generate hazardous waste unless a plan for off-site disposal of the waste is approved.

As proposed, the home occupation would not generate hazardous waste. Sawdust generated from milling is disposed in a compost pile.

- (E) A home occupation at a dwelling with an on-site sewage treatment system shall only generate normal domestic household waste unless a plan for off-site disposal of the waste is approved.

As proposed, the home occupation would not generate any excess household waste to the on-site sewage treatment system.

- (F) The home occupation shall not constitute, create or increase a nuisance to the criteria and standards established in Chapter Two, Part 3, Section 1.3, Environmental Regulations.

Chapter Two, Part 3, Section 1.3(4) outlines nuisances and states that “No noise, odors, vibration, smoke, air pollution, liquid or solid wastes, heat, glare, dust, or other such adverse influences shall be permitted in any district that will have an objectionable effect upon adjacent or nearby property owners and residents.

The Applicant stated that the sawmill runs on a 26hp gas powered engine which produces noise similar in level to a riding lawnmower. Riding lawnmowers are typically powered by engines with between 13 and 30 horsepower. The Applicant stated that at most three logs are milled in a day with each log generally less than 10 minutes per log. As a result, it would appear that based on the applicants testimony in the application that on the busiest day the mill would run for a total of 30 minutes which does not appear excessive and generally similar to the duration it could be expected that a riding lawnmower would be running.

The sawmill is stored in an accessory building and the sawdust is ultimately stored in a compost pile. The sawdust generated by the mill should be controlled and stored so that no sawdust blows onto neighboring properties becoming a nuisance.

The kiln used in the operation is stored in a shipping container and is run on electricity only with the only byproduct being water that comes out a small hose and is infiltrated back into the ground.

- (G) There shall be no outdoor display or storage of goods, equipment or materials for the home occupation.

The Applicant has stated that all kiln dried lumber is stored inside of the woodshop building and that the skid steer used for the business is also kept in a shed. Wet lumber and logs are currently stored in the back of the property or within sheds when space allows. Finished products are stored indoors. The lumber and logs while stored outdoors would appear similar in nature to stock piled wood which isn't uncommon to rural residential properties.

- (H) Parking needs generated by the home occupation shall be provided on-site.

Parking needs related to the home occupation are provided on site in the driveway that is used as the driveway providing access to the single family home on the property.

5. RECOMMENDATION

Staff is recommending approval of the Certificate of Compliance (CoC) for the Ruben Custom Sawmill and Woodworks home occupation located at 14142 90th Street S.

The Planner recommends the following conditions:

1. The Applicant shall reduce the property to no more than four (4) accessory buildings totaling no more than 3,500 square feet.
2. Sawdust generated by the sawmill must be controlled and stored indoors and not cause a public nuisance by blowing into adjacent properties.
3. Milling of lumber must be done within an accessory structure to control noise and sawdust. No lumber milling is permitted outdoors.

4. The physical milling of lumber shall be limited to Monday through Friday from 10:00am to 5:00pm. No milling of lumber on Saturday, Sunday, or national holidays.
5. Retail Sales shall be limited to Monday through Friday from 1:00pm to 6:00pm and Saturday from 9:00am to 4:00pm by appointment only. No retail sales permitted on Sunday.
6. No additional construction associated with the home occupation can be completed without a building permit.
7. The business is limited to no more than four (4) customers per day.
8. Signage for the business shall not be illuminated and must comply with ordinance requirements.
9. Traffic must be typical of a single-family residence in an agricultural area.
10. The business must comply with the performance standards for home occupations in the Development Code and must not create a nuisance as defined by the Development Code.
11. No exterior storage of any equipment related to the home occupation is permitted. All such equipment shall be stored within closed structures.
12. Wood stored in association with the home occupation shall not create a nuisance and shall be stored in a neat and orderly fashion in the rear of the property not visible from the public right of way.
13. The Certificate of Compliance shall expire and be considered null and void if the home occupation ceases operation for one (1) year.
14. Should the property be sold, the Certificate of Compliance terminates on the date of sale.
15. The home occupation must comply with all rules and regulations of Federal, State, County and local agencies.
16. All fees shall be paid.
17. The Town Board may revoke this Certificate of Compliance if there is a violation of any of its conditions. The Town Board will provide notice and an opportunity to be heard before acting to revoke this Certificate of Compliance.