

STAFF REPORT

Application:	Requests related to the operation of a home business. Approvals required include an Interim use permit for the use of the property as a home business (tire repair business) in the Rural Residential zoning district.
Applicant and Property Owner:	Steve and Andrea Safratowich
Agenda Item:	4(a)

Background Information:

- **Proposal:** The applicant has recently purchased a tire repair business from Stephen Girtz who was operating just south of the applicants lot (at 13700 190th St, PID 27.15.02910). That business was approved by Conditional Use Permit in 2008 as a "Small implement and tire sales business" and was also zoned Rural Residential at that time. It was approved by the Township with a list of 15 conditions (see attached).

The current applicant is proposing to operate the tire business from the property that has his home on it - just to the north and west of the former Girtz tire business. Initially, he has indicated that he planned to obtain another site nearby for the business to operate from, but that did not work out. Instead, he states in the application "I would like to run my tire business out of my garage and most likely build a shop in the future on the property." He indicates that most of his business involves service calls to other properties but that customers do occasionally come to his home site.

The business operation would involve work in his garage and storage of tires and business vehicles and other equipment outside. The site is well screened from the view of neighboring property owners to the north, east and south by existing tree lines and somewhat well screened to the west by trees as well, although some of the outdoor storage areas are visible from Easy Drive as neighboring property owners to the west enter their property. The site is accessed from Easy Drive (private gravel road not maintained by the Township) via 190th St (paved Township road) on the south.

- **Location:**
 - Property address: 19139 Easy Dr
 - Sec/Twp/Range: 15-140-35
 - Parcel number(s): 27.67.40300 and 27.67.40200
- **Zoning:** Rural Residential
- **Lot size:** Approx. 11.38 acres according to County GIS estimate (both parcels combined)
 - Existing and Proposed Impervious Coverage: Well under 20% limit allowed for residential properties in the Rural Residential District.
- **Septic System Status:** The property is served by a private sewer and well. The sewer was installed in 2015 and is located north of the existing home. Hubbard County indicates that a compliance inspection is not triggered by the application for the home business and they do not have concerns about the sizing of the system.

- **Natural Features:**

- Floodplain: The existing and proposed structures are not within an identified floodplain.
- Bluff/Steep Slopes: The lot does not contain a bluff. The lot contains steep slopes to the north of the home and somewhat to the east of the home although these should not significantly impact the operation of the proposed home business.
- Wetlands: There are wetlands to the north and east of the property that would likely only be impacted if waste materials are not properly managed on-site.

Planning Commission Action: The Planning Commission may recommend approval of the request, denial of the request(s), or tabling the request(s) if the Commission should need additional information from the applicant. If the Commission should recommend approval or denial of the request, the Commission should state its recommended findings which support either of these actions.

Staff Comments:

1. Section 7.16 of the Todd Township Land Use Ordinance lays out specific standards that apply to the operation of a home business. Items of note in those standards include (but are not limited to) a requirement that the business operator also have their primary residence on the property, that wastes be disposed of in accordance with applicable County and state regulations, that the road authority finds that the use of public roads won't adversely impact public safety or traffic, that there be sufficient off-street parking and that outdoor storage of items be sufficiently screened from view of public roads and abutting residences.
2. The applicant has indicated a possible desire to build a larger shop (instead of using his attached garage) either on the property or nearby on property he would need to purchase. The Commission should note whether the current application, if approved, would allow for the construction and use of a new shop now (and what limitations, if any, would be imposed on the size or location of such a building) or if that would require a new interim use permit application at the time of construction.

Staff Recommendation: Based on the findings of fact and discussion listed below, Staff recommends approval of the proposed Interim Use only if it is found that the standards for approval have been met and that the use can be sufficiently limited by the standards in Section 7.16 of the Township Land Use Ordinance and any specific additional conditions imposed in the granting of the interim use permit.

If the application or some version of the application is approved, Staff would recommend consideration for the following conditions of approval (or tabling of the application to allow for review of revised plans consistent with the following):

1. The interim use shall be valid for a period of ____ years from the date of approval by the Town Board. The Landowner may apply for a renewal of the interim use permit, subject to the requirements of applicable ordinances at the time, at any time within the last six (6) months of the initial permit period.
2. The activities and events encompassed by this interim use permit shall be limited to the following activities:
 - 1) Tire repair and activities necessary and incidental to tire repair.

No retail or wholesale sales of tires or other equipment shall be allowed.

No repair of vehicles or equipment shall be allowed outside of those related to tires themselves.

3. Activities allowed under the approved IUP shall not create excessive noise. Amplified noise or other noise generation shall comply with the State of Minnesota Noise Rules established by the MPCA. The Township may require Landowner to prepare a noise control plan for approval by the Town Board if there are valid complaints. Landowner shall comply with any noise control plan approved by the Town Board.
4. The hours of operation for tire repair activities that would generate noise beyond the boundaries of the property or traffic from customers shall be limited to 7am to 10pm. This shall not prohibit the business operator from leaving their site to conduct business activities off-site outside of those hours provided it does not involve loading trucks with tires or other equipment in a manner that generates noise beyond the property lines.
5. Tire repair activities shall be limited to the interior of the existing 32' x 40' attached garage. No activities beyond the loading and unloading of tires and related equipment and outdoor storage as limited below shall take place outside of the garage. No expansions of the garage for business activities shall be allowed unless specifically approved in writing by the Town Board.
6. Outdoor storage of tires or other equipment related to the business shall be limited to no more than _____ square feet. All outdoor storage areas shall be limited to within 20 feet of the east side of the existing attached garage or existing gravel/hard surfaced driveways and parking areas. All areas of outdoor storage should be screened by vegetation or fencing so as not to be visible to adjoining landowners - including landowners facing east on Easy Street. The parking of operable and licensed vehicles on existing driveway or parking areas shall not be considered outdoor storage.
7. The applicant shall provide evidence of any required County, state or federal permits or licenses related to the operation of the business upon demand by the Township Zoning Administrator or Town Board.
8. All signage to be placed or erected on the property or on any structure shall comply with the requirements (including separate permitting) of Section 9.0 of the Todd Township Land Use Zoning Ordinance (and/or successor language regulating signage)
9. Hours of operation for all activities involving active repair of tires and the coming and going of customer vehicles shall be limited to between 7:00 a.m. and 10:00 p.m. unless otherwise approved in writing by the Town Board. This shall not preclude the landowner from leaving the site with loaded vehicles outside of those hours provided any loading or unloading of such vehicles does not generate noise beyond the property lines.
10. The owner shall operate the approved use and property in accordance with all local, state, and federal regulations - including all requirements as outlined in Section 7.16 of the Todd Township Land Use Ordinance, or successor regulations applicable to home businesses.
11. The Landowner shall, upon reasonable advanced notice, provide the Township staff and/or its agents with access to the Property for inspection for determining compliance with this IUP.
12. Landowner shall consult with the local fire department and comply with any and all requirements they may have regarding the Property, including the storage and use of flammable or hazardous materials, unless specifically waived in writing by the Town Board.

13. Issuance of the IUP is not a substitute for any other permit required in conjunction with activities that may be conducted on the Property, including but not limited to building permits, electrical permits, and road permits. Landowner shall be responsible for obtaining any and all other necessary federal, state or local governmental permits and/or approvals for the proposed use. If requested by the Township, Landowner shall submit evidence of all required permits. Upon written notice of any violation of this condition the Landowner shall promptly remedy the violation within the time period specified by the Township. Any violation not remedied or addressed shall be subject to IUP review and may be basis for IUP termination.
14. Landowner shall at all times comply with the approved application narrative and project plans, the conditions of this IUP and with all Township, County, State and Federal laws applicable to the Property and the use of the Property. Upon written notice of any violation the Landowner shall promptly remedy the violation within the time period specified by the Township. Any violation not remedied or addressed shall be subject to IUP review and may be basis for IUP termination.
15. Landowner is to notify the Township of any operational changes or site improvements at the Property to determine compliance with the IUP or need for any additional approvals.
16. A certified copy of the IUP shall be recorded by Landowner with the Hubbard County Recorder or Registrar of Titles.
17. Landowner shall reimburse the Township for all administrative, legal, planning, engineering and other professional costs incurred in the creation, administration, enforcement or execution of said IUP application or this IUP. Landowner agrees to pay all such reasonable costs within 30 days of billing by the Township. Bills not paid within 30 days of billing by the Township shall accrue interest at the rate of 6% per year. Further, if Landowner fails to pay said amounts within the time permitted, the Township may specially assess such costs against the Property. Landowner by accepting this IUP knowingly and voluntarily waives any and all rights to appeal any certification/assessment under any applicable statutes, the Constitution, and case law.
18. This IUP shall not go into effect unless Landowner signs this IUP agreeing to the terms and conditions contained herein.

Applicable Statutes/Ordinances: See Appendix A.

Findings of Fact: The following findings of fact are presented by Staff for consideration by the Planning Commission:

1) The maintenance of safe and healthful conditions as well as the general health, safety and welfare of the residents.

Findings Supporting Approval

The primary impact on the health, safety and welfare of Township residents would likely be from increased noise, traffic, outdoor storage and possible pollution if wastes are handled improperly. These potential impacts are already, or can be, adequately mitigated by maintaining the existing screening provided by trees on the property, limiting outdoor storage areas and limiting hours of operation.

Findings Supporting Denial

The operation of a tire repair business at the end of a private road where other residential properties are nearby would be likely to create unnecessary conflict and possible pollution of groundwater along with visual and noise nuisances.

2) The prevention and control of water pollution including sedimentation.

Findings Supporting Approval

All stormwater that would be running off of the proposed improvements would be adequately handled on-site without creating a negative impact on public waters or wetlands.

Findings Supporting Denial

The applicant has not provided sufficient information to assure the Township that wastes and other pollutants will be adequately managed to prevent pollution.

3) The impact on existing topographic and drainage features and vegetative cover on the site.

Findings Supporting Approval

The proposed use will not change the existing topography of the site and should not impact the pattern of drainage onto adjacent properties or vegetative cover on the site.

Findings Supporting Denial

None

4) The location of the site with respect to existing or future access roads.

Findings Supporting Approval

The proposed use would not appear to create the need for any future access roads.

Findings Supporting Denial

None

5) The compatibility with uses on adjacent land.

Findings Supporting Approval

The proposed use is commercial in nature but would be limited in its on-site activity and operated as a home business - making it compatible with the historical use of the property as a residence. Surrounding uses are primarily residential or agricultural in nature and with adequate limitations in the approval of the home business it should not cause any significant incompatibilities. Further, given the approval is interim in nature, it provides protection in that the business approval can not be renewed should there be problems with its operation impacting neighboring properties.

Findings Supporting Denial

The operation of a tire repair business presents unique issues that many other home businesses would not and that can create significant nuisance characteristics - including noise, outdoor storage, pollution of surface and ground waters and increased traffic from heavier vehicles. The applicant has not sufficiently indicated how they would mitigate these potential impacts to ensure compatibility with neighboring uses.

6) The compatibility with a desirable pattern of development in the area and in the township.

Findings Supporting Approval

The proposed use should not have any significant impact on the development of surrounding land as most of the land nearby is already developed and whatever land remains undeveloped should not be impeded by the proposed use.

Findings Supporting Denial

The area is predominantly residential in nature and the operation of a business in the area would detract from that general pattern.

7) The adequacy of the proposed wastewater treatment system for the new use.

Findings Supporting Approval

The site is served with an existing septic system installed in 2015. Hubbard County indicates no concerns with the system as it is currently designed and installed.

Findings Supporting Denial

None

8) The compliance with the Todd Township Community Comprehensive Plan and other Todd Township Ordinances, as amended or any other ordinance, rule or statute.

Findings Supporting Approval

The proposed use is allowed by the Todd Township ordinance as an interim use and the proposed home business will need to meet all required standards for home businesses outlined in Section 7.16 of the Township Land Use Ordinance.

Findings Supporting Denial

None

9) The proposed use can be accommodated with existing public services and will not overburden the town's service capacity.

Findings Supporting Approval

The proposal should have no significant impact on public services as the site is already served with electric service and is accessed via existing public roads onto a privately maintained road.

Findings Supporting Denial

The existing public roads leading to the property are adequate for the expected traffic, but Easy Drive is a private gravel road that could experience increased wear and tear from the traffic generated by the business and potentially lead to conflict with other landowners who access their property from that road - leading to potential requests for the Township to take over maintenance of the currently private road.

10) The traffic generated by the proposed use is within the capabilities of the roads serving the property.

Findings Supporting Approval

The proposal will be likely to increase traffic levels beyond what already exists, but not so significantly that they cannot be handled. The site is accessed via a paved township road and

then a private gravel road.

Findings Supporting Denial

Potential increased wear and tear on the private gravel road would likely lead to conflict with other landowners who access their property from the road.

11) The effect of the proposed use on groundwater, surface water and air quality.

Findings Supporting Approval

With proper management of stormwater and potential pollutants from the business, the impact on groundwater, surface water and air quality will be minimal.

Findings Supporting Denial

The use of various oils, greases and chemicals in the tire business has the potential to pollute surface and ground water as well as increase air pollution.

12) Whether such use will tend to or actually depreciate the value of other properties in the area in which it is proposed.

Findings Supporting Approval

Given the standards in the Township Ordinance relating to home businesses and the small scale of the business, the proposed use is unlikely to depreciate property values in the area. If such impacts begin to be apparent, the interim use permit will eventually expire and can be denied for renewal by the Township.

Findings Supporting Denial

The operation of a commercial/industrial home business is likely to cause noise, outdoor storage and traffic nuisances for nearby properties that will depreciate their value.

13) Will terminate upon a date or event that can be identified with certainty.

Findings Supporting Approval

Provided a date is specified in the conditions of approval for the termination of the interim use permit, this condition is met.

Findings Supporting Denial

None

14) Will be subject to any conditions that the board deems appropriate for permission of the use, including a condition that the owner will provide an appropriate financial surety to cover the cost of removing the interim use and any interim structures upon the expiration of the interim use permit.

Findings Supporting Approval

The nature of the proposed home business are such that if the interim use were not extended, the landowner would continue to have valid use of the property and there would be no need to remove structures or other improvements.

Findings Supporting Denial

None

Appendix A

Applicable Statutes and Ordinances

Todd Township/Hubbard County Regulations

3.15 INTERIM USE PERMITS

The purpose of an interim use permit is to allow a use that is not a permitted, provisional or conditional use, for a limited period of time, subject to conditions set forth in this ordinance.

3.15.02 Criteria for Considering an Interim Use Permit

The criteria for considering an interim use permit shall be the same as for a conditional use permit as provided for in Section 3.13 of this ordinance.

3.15.04 Standards for Issuing an Interim Use Permit

The board may issue an interim use permit only if it finds that such use at the proposed location:

- A. Meets the standards of a conditional use permit contained in Section 6 and Section 7 of this ordinance;
- B. Will terminate upon a date or event that can be identified with certainty;
- C. Will be subject to any conditions that the board deems appropriate for permission of the use, including a condition that the owner will provide an appropriate financial surety to cover the cost of removing the interim use and any interim structures upon the expiration of the interim use permit; and

3.15.07 Termination

An interim use permit shall terminate upon the occurrence of any of the following events, whichever occurs first:

- A. The termination date or event stated in the permit; or
- B. The interim use permit is revoked following the same procedures for the revocation of a conditional use permit pursuant to Section 3.13 of this Ordinance; or
- C. The use has been discontinued for a minimum period of one (1) year.

5.04 Rural Residential District

A Rural Residential district is intended to provide somewhat limited residential development opportunity on land that is near lakeshores and growth areas. The rural residential district is a transitional district, and to minimize future land use conflicts, new animal feedlots shall be prohibited and to maintain the area's rural characteristics, conservation design development shall be encouraged. This district is intended to meet the following Todd Township Comprehensive Plan goals:

- o Promote land conservation / compatible land uses
- o Preserving nature and flavor of the quiet open space character of the township
- o Conservation based subdivision work -facilitate a preference for conservation designed work in the township for development

- o Consider green spaces / buffers - preserving and/or creating new green spaces with and around developments and differing land uses
- o Implement mobile home regulations to address problems
- o Allow some types of home business uses
- o Enforce parking / signage
- o Consider home versus commercial uses /standards
- o Review subdivisions concerns regarding roads and construction
- o Consider the total carrying capacity of township
- o Work towards identifying population growth and implement lifestyle housing for all landowners in the township to meet the changing times and aging population
- o Pave roads in new developments through developer's agreements and contracts

5.04.01 Lot Requirements

- A. Minimum acreages: 2.25 acres
- B. Minimum lot width: 150 feet
- C. Setbacks from:
 - Property line - 20 feet
 - Public road right of way - 35 feet (from right-of-way) or 65 feet from the centerline of the traveled roadway, whichever is more restrictive.
 - County right of way - 35 feet
 - Township and other rights-of-way - 35 feet
- D. Maximum impervious lot coverage - 20%
 - 1. The allowable impervious coverage may be increased to 30% on legal nonconforming lots smaller than 2.25 acres by conditional use permit and with the submittal and implementation of a comprehensive stormwater management plan acceptable to the Township that emphasizes the onsite treatment and storage of stormwater and any irrigated water through a combination of methods which may include buffer strips, swales, rainwater gardens, retention or infiltration ponds or other acceptable best management practices. The Township may require such plans to be designed by an engineer or other qualified professional and reviewed by an independent engineer or other qualified professional before approving such plan.

5.04.02 Permitted Uses

The following uses are permitted subject to any applicable performance and general development standards contained in Sections 6 and 7 of this ordinance:

- A. Conservation designed developments
- B. Dwelling-single family
- C. Earth shelter home

- D. Existing agricultural uses
- E. Family daycare
- F. Garage – attached and detached
- G. Guest cottage – less than six hundred (600) square feet
- H. Licensed residential programs
- I. Licensed nonresidential programs
- J. Public parks and trails
- K. Residential accessory buildings
- L. Solar Energy System – Accessory

5.04.03 Conditional Uses

The following uses may be allowed as conditional uses following the procedures set forth in Section 3.13 of this ordinance and further subject to the performance and general development standards contained in Section 6 and 7 of this ordinance.

- A. Antennas, personal wireless
- B. Bed & breakfast inns
- C. Cemeteries
- D. Churches
- E. Schools
- F. Dwelling-multifamily
- G. Golf course
- H. Guest cottages – greater than six hundred (600) feet but not more than 700 feet
- I. Manufactured home park
- J. Conventional designed developments

5.04.04 Interim Use Permits

The following uses may be allowed as interim uses subject to the procedures set forth in Section 3.13 of this ordinance and further subject to the performance and general development standards contained in Sections 6 & 7 of this ordinance:

- A. Concrete (ready mix) or asphalt mixing facility, temporary
- B. Group family day care
- C. Home business
- D. Home occupations
- E. Outside storage/display of goods less than 2 months
- F. Secondary dwelling unit
- G. Temporary uses/special events Rural Tourism and Event Center

7.17 Home Occupation Standards

A use of a primary residence for a non-residential commercial use by only the inhabitants therein which is clearly incidental and secondary to the primary use.

7.17.01 A Home Occupation is allowed with an Interim Use Permit in all designated districts except Commercial

7.17.02 There shall be a primary residence on the property that is occupied by the business owner.

7.17.03 Refer to the relevant sign language for each Land Use District in this Ordinance

7.17.04 All waste to be disposed of in accordance with Hubbard County and State Regulations.

7.17.05 All state well regulations for the home occupation must be met.

7.17.06 No outside storage of material or equipment unless screened appropriately.

7.17.07 County and State wastewater treatment regulations must be met for the type of home occupation.

7.17.08 No person shall be employed other than a member of the household residing on the premises.

7.17.09 The home occupation shall not generate more than three (3) client/customer vehicles at any one time and all parking shall be provided on-site.

7.17.10 The home occupation shall not require alterations to the exterior of the residence or change the residential character.

7.17.11 The home occupation shall comply with all county, state and federal regulations.

7.17.12 No outside storage shall be permitted.