

VILLAGE OF YELLOW SPRINGS  
PLANNING COMMISSION: MEETING OF PLANNING COMMISSION  
WITH COUNCIL PRESENT

AGENDA

The Village of Yellow Springs Planning Commission will meet with Council in regular session on Monday, June 10, 2013 at 7:00 PM in Village Council Chambers on the second floor of the Bryan Community Center, 100 Dayton Street, Yellow Springs, Ohio 45387

7:00 CALL TO ORDER

ROLL CALL

REVIEW OF AGENDA

7:05 REVIEW OF MINUTES

March 21, 2013 Minutes of Planning Commission

COMMUNICATIONS

7:10 CITIZENS' COMMENTS

7:15 OLD BUSINESS

7:25 NEW BUSINESS/ PUBLIC HEARINGS

Conditional Use Petition for 4 Xenia Avenue

Conditional Use Petition for 107 Tower Court

9:00 ADJOURNMENT

**Council of the Village of Yellow Springs  
Special Meeting Minutes**

**In Council Chambers @ 7:00 P.M.**

**Monday, May 13, 2013**

**CALL TO ORDER**

Council President Hempfling called the meeting to order at 7:05 pm.

**ROLL CALL**

Present were Council President Judith Hempfling, Council Vice President Lori Askeland, Karen Wintrow, Rick Walkey and Gerald Simms. Also present were Village Manager Laura Curliss, Village Zoning Administrator Stephen Anderson, Zoning Assistant Tamara Ennist, and Village Solicitor Chris Conard.

**REVIEW OF AGENDA**

There were no changes made to the agenda.

**ANNOUNCEMENTS**

Wintrow announced an upcoming Chamber Chat addressing building fire codes and new regulations. She noted that the Village Zoning Administrator will be present as will Greene County Building Inspector Al Kuzma and Fire Chief Colin Altman. This will be held in rooms A&B in the Bryan Center at 9am on May 16<sup>th</sup>.

**MINUTES**

Minutes of April 29, 2013 Special Council Meeting. Askeland MOVED and Simms SECONDED a MOTION TO ACCEPT THE MINUTES AS WRITTEN. The MOTION PASSED 5-0 on a voice vote.

**PETITIONS & COMMUNICATIONS**

Askeland made note of all received materials.

The Clerk will receive and file:  
Village Manager re: Antioch College Zoning Requests  
Holyoke, Holyoke and Miller re: Request to Maintain Residential Zoning  
Millworks Development Corp. re: Hempfling/Walkey/MacQueen Memo  
Matt Reed re: Mixed Overlay District and Vehicle Service Stations  
Stephen Anderson re: Struewing 10.6 Acre Parcel  
Sutton and Van der Heiden re: Community Resources Zoning Request  
Wolters and Cornett re: Food Truck Zoning Regulations  
Judith Hempfling re: Zoning Code General Comments

**CONTINUATION OF PUBLIC HEARING OF ZONING CODE AS RECOMMENDED TO COUNCIL BY PLANNING COMMISSION**

Hempfling referred to the letter from Community Resources and asked a representative to provide detail. Board member David Boyer stated the issue from the perspective of the development corporation saying that they had worked with Council during the establishment of the initial development, and that they had pushed for the area not to be PUD at that time.

The designation of Mixed Commerce, Boyer stated, was intentionally selected because of the need in a PUD process, to present a site plan in the event a change is made. Boyer noted that it is unlikely that the entire area would be developed at once, and that it would be onerous if a site plan had to be presented each time a developer was selected for an area.

Walkey commented that the annexation of the CBE was predicated upon the zoning status, stating that the original agreement should be honored.

Askeland stated that she was not aware that there was any specific reason other than elimination of a single-use district for changing the area to PUD.

Wintrow commented that the terms of the PUD would be the same as those established for the Mixed Commerce district, and that the TRC, LeBlanc and Planning Commission had all agreed that the change could be made without impacting development at the CBE.

Jerry Sutton, member of Community Resources, commented that there are areas of the CBE that are not yet plotted, and referred to a sentence in the PUD section stating that any major change to the “current plan” requires a Planning Commission hearing. Sutton stated that this would detract from progress at the CBE, given the unlikelihood of all plots selling at the same time.

Walkey MOVED to RE-ESTABLISH THE CBE AS A MIXED COMMERCE DISTRICT. Simms SECONDED, and the MOTION PASSED 5-0 ON A VOICE VOTE.

Hempfling drew attention to the matter of the Glass Farm. She explained that indeed the proposed conservation easement could be made a part of any PUD, and that a developer could use the easement as their negotiated green space.

Askeland MOVED to RETURN THE CONSERVATION EASEMENT ON THE GLASS FARM TO ITS ORIGINAL ACREAGE OF 13+ ACRES AND TO RE-DRAW THE MAP TO INDICATE THIS CHANGE. Walkey SECONDED, and the MOTION PASSED 5-0 ON A VOICE VOTE.

Regarding the zoning of the Glass Farm, Anderson explained that the zoning designation of the district is the fallback density for any PUD.

Hempfling stated that she, MacQueen and Walkey are recommending a designation of R-B to encourage greater density.

Hempfling MOVED TO ZONE THE GLASS FARM RESIDENCE B. Walkey SECONDED.

Discussion ensued among Council members and Anderson.

Miami Township Zoning Administrator Richard Zopf asserted that the zoning should be set to indicate the density desired by the Village.

Hempfling CALLED THE VOTE, and the MOTION PASSED 4-1, with Wintrow voting against.

Hempfling noted that Antioch College has asked that the small area zoned I-1 on the south side of Center College be changed to Residence C.

A discussion ensued regarding whether or not to identify the property owners. Wintrow stated that there have been zoning district changes involving several properties and that none of those involved special notification of the property owners and noting that there has been ample notification of the entire zoning code to the Village as a whole.

Wintrow MOVED TO RE-ZONE THE I-1 AREAS ADJACENT TO ANTIOCH COLLEGE AS R-C. Walkey SECONDED, and the MOTION PASSED 5-0 ON A VOICE VOTE.

Beth Holyoke requested that her home and that of her neighbor not be zoned as CBD as is the case in the draft code, but that they be zoned R-C. Holyoke cited the difference in setback requirements under the CBD designation, stating that it would significantly reduce lot line setback, thereby infringing upon solar access.

Andy Holyoke and Marian Miller agreed with Beth’s statements and further requested the change.

Walkey MOVED to CHANGE THE DESIGNATION OF THE LAST TWO RESIDENCES ON RAILROAD STREET FROM CBD BACK TO R-C. Hempfling SECONDED and the MOTION PASSED 4-0, with Wintrow abstaining due to potential conflict of interest.

Discussion moved to the E-1.

Curliss referenced a memo she produced following a meeting with Antioch College representatives. The memo requests several changes to the proposed code. With respect to the E-1,

Curliss stated, Antioch College requests amendment to Table 1246.02 (Schedule of Uses: Educational Institution District) as follows:

**Add** Offices for executive, administrative, professional, real estate, accounting and similar professional activities as a PERMITTED use in the E-1.

**Add** General retail catering to the needs of the community, but less than 10,000 square feet of floor area as a PERMITTED use in the E-1.

**Add** Interpretive Centers as a PERMITTED use in E-1.

Wintrow noted that she has previously advised that retail uses be conditional as a way to provide protection of the CBD as a retail core. Wintrow observed that the proposal is a departure from current practice, and a departure from goals stated in the Comprehensive Plan.

Hempfling stated that there are businesses in the I-1 which are competing with businesses in the CBD, and interpreted this as an indication of the good health of the CBD. Hempfling stated that she did not want to create a detriment to Antioch College.

Wintrow noted that such things as bookstores and coffee shops are permitted on campus as accessory uses, but they should be permitted conditionally as primary uses.

Askeland MOVED to ADD OFFICES FOR EXECUTIVE, ADMINISTRATIVE, PROFESSIONAL, REAL ESTATE, ACCOUNTING AND SIMILAR PROFESSIONAL ACTIVITIES AS A PERMITTED USE IN THE E-1, and to ADD INTERPRETIVE CENTERS AS A PERMITTED USE IN E-1. Walkey SECONDED.

Wintrow answered a question from Sam Young, stating that any commercial use of the Antioch property will be taxed.

Hempfling CALLED THE VOTE, and the MOTION PASSED 5-0 ON A VOICE VOTE.

Wintrow MOVED TO ADD GENERAL RETAIL CATERING TO THE NEEDS OF THE COMMUNITY (LESS THAN 10,000 SQUARE FEET OF FLOOR AREA) AS A CONDITIONAL USE IN THE E-1. Walkey SECONDED, and the MOTION PASSED 5-0 ON A VOICE VOTE.

Curliss stated the request from the College to add to the definitions for Farmers Market and Outdoor market or covered bazaar the phrase “temporary and non-structural.”

Wintrow MOVED to ADD TO THE DEFINITION SECTION UNDER FARMERS MARKET AND OUTDOOR MARKET OR COVERED BAZAAR THE PHRASE “TEMPORARY AND NON-STRUCTURAL.” Askeland SECONDED, and the MOTION PASSED 5-0 ON A VOICE VOTE.

Hempfling moved the discussion to Residential districts.

Wintrow clarified for resident Lindy Keaton that the E-1 district would permit any use also permitted on the Antioch campus, and stressed that the Antioch School was unlikely to want to change from R-A to E-1.

Regarding density, Hempfling read the proposed definition of each district (R-A; R-B and R-C).

Wintrow PROPOSED ADOPTION OF THE ENTIRE SECTION (Chapter 1248) AS WRITTEN. Simms SECONDED.

Askeland noted that she is in favor of the small house movement, and proposed that lot minimums be eliminated.

Hempfling stated that she had asked Anderson for a statement regarding the impact of the density changes, given the current level of density in R-B and R-C. She stated that Anderson did not think a great deal would be possible.

Wintrow stated that having reduced the size of lots and the size of structures, there is not much more wiggle room.

Askeland stated that she and Chris Till had voted for no minimum square footage for R-B and R-C.

Askeland MOVED to AMEND THE MOTION ON THE TABLE TO REMOVE MINIMUM SQUARE FOOTAGE REQUIREMENTS FROM THE RESIDENTIAL DISTRICTS. Walkey SECONDED.

Wintrow stated that at least one zoning district must maintain available for larger single family houses. She asked that some minimum be applied to the R-A district.

Miami Township Zoning Administrator, Richard Zopf commented that many small dwellings grow through additions. He characterized the need for small houses as a need to build incrementally, and expressed support for this approach.

Wintrow stated that 500 square feet in R-B and 900 square feet in R-A is in small in comparison to minimums set in other communities.

Hempfling CALLED THE VOTE, and the MOTION PASSED 3-2, with Wintrow and Simms voting against.

Hempfling noted that multi-family structures are conditional in R-B in the new code, and that they are permitted in R-B in the current code, and asked for an explanation.

Askeland explained that because the area is now so built up, it is helpful for the matter to have to come before Planning Commission so that issues pertaining to parking, drainage, etc. can be examined. The new code reflects the current level of density, said Askeland.

Hempfling commented that given the current level of development in R-B and R-C, it seems unlikely that there will be a real opportunity to provide the stated eight units per acre.

Anderson responded that it will be a case by case issue, and that location will influence the decision. He noted that there are few locations where achieving eight units will be possible.

Walkey commented upon the ambiguity of the statement “densities up to eight units per acre,” and asked for clarification.

Anderson explained that the purpose statements for the residential districts determine their densities, but that there are two parameters—those of lot size and of units per acre, and both must be achieved.

Wintrow commented that the Village is already quite dense, and that issues of parking have to be dealt with. She commented that there are undeveloped areas with potential for greater density, but that greater density cannot be achieved successfully by forcing it into the existing developed areas.

Anderson agreed that there is a conflict between the lot size requirement and the number of units per acre permitted.

Hempfling MOVED TO DELETE THE CURRENT LANGUAGE IN THE NEW CODE AND REPLACE IT WITH THE LANGUAGE FROM THE EXISTING CODE REGARDING MULTI-FAMILY UNITS.

Wintrow asked whether there is a way to differentiate between undeveloped areas and developed areas in the code.

Anderson opined that the best method is to use the PUD process for new development.

Hempfling took issue with the need to go through a PUD process to build multi-family units.

Wintrow stated that developers are not required to go through a PUD process, but can go through Planning Commission as a conditional use process.

Curliss suggested that a way to avoid the issue is to re-zone the Kinney and Donahoe areas as R-C.

Hempfling MOVED that OFFICES FOR EXECUTIVE, ADMINISTRATIVE, PROFESSIONAL, ACCOUNTING AND SIMILAR ACTIVITIES A CONDITIONAL USE IN R-B. Walkey SECONDED.

Hempfling argued that these uses are already happening, and that she did not see it as a problem.

Wintrow stated her understanding that part of the reason that the R-C district was extended onto the arterials was to concentrate development into areas where there is parking, and to maintain neighborhoods as places where people live, and for walk-and-bikeability.

Hempfling CALLED THE VOTE, and the MOTION PASSED 3-2, with Wintrow and Simms voting against.

Marianne MacQueen asked that the Purpose Statement be changed to replace the proposed language regarding units per lot with either “six, eight or fourteen primary units,” or “six, eight or fourteen buildable lots”. This language would more easily allow accessory dwellings, she stated.

Hempfling MOVED to CHANGE “SIX, EIGHT AND FOURTEEN UNITS” TO “SIX, EIGHT AND FOURTEEN PRIMARY RESIDENCES.”

Anderson addressed stated concerns by suggesting that the term used be “principle use” which more clearly differentiates between primary and accessory.

Walkey argued that positioning on a lot can be used to subvert the intent of the Purpose Statement, and questioned the utility of the Statement.

Anderson stated that the zoning code must set a standard for compliance that fits with the vision of the Village.

Responding to a question from Hempfling, Curliss defined accessory structures as those serving the primary unit. She further explained that addition of the structure as defined should not significantly add to density.

Wintrow CALLED THE QUESTION. The Clerk clarified that the motion was to accept Chapter 1248 as AMENDED. Hempfling CALLED THE VOTE, and the MOTION AS AMENDED PASSED 5-0 ON A VOICE VOTE.

Discussion moved to the B-1 and B-2 districts.

Hempfling MOVED to make ELECTRIC SALES AND PLUMBING SUPPLIES A PERMITTED USE IN B-1. Walkey SECONDED.

Wintrow commented that the current plumbing business would be grandfathered in, so that changing the status to permitted will not affect any existing business. Wintrow explained that such businesses tend to generate a fair amount of vehicle traffic and attendant need for parking, tend to need greater storage area, and do not enhance the walkability of the downtown area. Wintrow opined that such business are more a single destination business better served in an area more oriented to traffic.

Beth Holyoke expressed strong disagreement with Wintrow’s statement, stating that a plumbing store does not generate any more traffic than a restaurant. Holyoke stated that while Yellow Springs is a tourist destination, there should be concession to residents of the Village in providing needed businesses close at hand.

Marianne MacQueen agreed with Holyoke, stating that part of the charm of the downtown area is that it is a functioning downtown area. She stated her opinion that more types of businesses should be permitted in B-1.

Wintrow expressed understanding for Holyoke and MacQueen's opinions, reiterating that no business currently in operation would be displaced and noting that changes have occurred over the years, and the code is reflective of this.

Hempfling stated that she would like to add artisan trades and other businesses to her motion, but did not do so.

Rick Donahoe asked where a business would go if not in the B-1. Wintrow pointed out B-2 and I-1 as other options.

Hempfling CALLED THE VOTE, and the MOTION FAILED 3-2, with Askeland, Simms and Wintrow voting against the motion.

Hempfling MOVED TO PERMIT REPAIR SHOPS IN B-1. Walkey SECONDED, and the MOTION FAILED 3-2, with Askeland, Simms and Wintrow voting against the motion.

Hempfling sought clarification that current residents of non-conforming apartment units located above businesses in B-1 will be permitted to remain until the business no longer exists.

Wintrow MOVED to ACCEPT CHAPTER 1250 in its ENTIRETY. Walkey SECONDED.

Curliss provided clarification to Dan Reyes as to why libraries are not included in the B-2 district, stating that the code is there used to try to focus certain uses with compatible uses.

Hempfling CALLED THE VOTE, and the MOTION PASSED 5-0 ON A VOICE VOTE.

Attention then turned to the I-1 and I-2 districts.

Hempfling MOVED to MAKE LIVE-WORK A CONDITIONAL USE IN I-1. Walkey SECONDED.

Wintrow argued that an industrially zoned area is not a place compatible with family living.

Ellen Hoover of Millworks agreed with Wintrow, stating that Planning Commission did not use the term "live-work", but used the term "caretaker apartment." Hoover noted that the area has traffic, large equipment, no sidewalks, no yard, and was in her opinion not an appropriate setting for children.

Hempfling clarified that she was trying to permit an artist live-work situation.

Hoover noted that regardless of the zoning status, they could choose not to allow a particular use on their property.

Askeland requested a definition from Paul LeBlanc of "caretaker," and suggested the definition as "a principle user living and working in a shop."

Hempfling MOVED to TABLE THE MOTION. Askeland SECONDED, and the MOTION TO TABLE PASSED 5-0 ON A VOICE VOTE.

Dan Reyes noted that I-1 lists as conditional the storage, transfer, disposal and incineration of solid waste, medical waste and hazardous waste. This, Reyes noted, seems incompatible with having residents in the same location. This, Reyes noted, seems incompatible with having residents in the same location in I-2.

Wintrow MOVED TO ADD AS CONDITIONAL THE STORAGE, TRANSFER, DISPOSAL AND INCINERATION OF SOLID WASTE, MEDICAL WASTE AND HAZARDOUS WASTE IN I-2. Simms SECONDED.

Curliss responded to Reyes' concern, stating that such uses should indeed not be permitted.

Hoover stated that Millworks opposes as a permitted use the storage, transfer, disposal and incineration of solid waste, medical waste and hazardous waste in I-1, and noted that they have opposed this all along.

Askeland stated that she remembered Curliss advising that this use be removed from the Schedule of Uses. She asked that this be removed from the Schedule.

Askeland MOVED THAT “THE STORAGE, TRANSFER, DISPOSAL AND INCINERATION OF SOLID WASTE, MEDICAL WASTE AND HAZARDOUS WASTE” BE REMOVED FROM ALL DISTRICTS IN THE SCHEDULE OF USES. Walkey SECONDED, and the MOTION PASSED 5-0 ON A VOICE VOTE.

Wintrow stated that the Manufacturing section is conditional in I-2, and she did not remember why this is the case.

Marianne MacQueen stated her concern that the Antioch Company is located in I-2, but that this district does not permit “offices for executives, professors and administration”. She suggested that these be permitted or that the area be rezoned as I-1.

Wintrow stated that the Industrial district needs more scrutiny.

Hempfling stated that the meeting will close, but the public hearing will remain open.

**ADJOURNMENT**

Wintrow MOVED and Simms SECONDED and MOTION TO ADJOURN. THE MOTION PASSED 5-0 ON A VOICE VOTE at 9:28pm.

*Please note: These notes are not verbatim. A DVD copy of the minutes is available for viewing in the Clerk of Council’s office between 9 and 3 Monday through Friday.*

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Judith Hempfling, President

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Attest: Judy Kintner, Clerk

**-Public Notice-**  
**PUBLIC HEARING**  
**YELLOW SPRINGS, OHIO**  
**PLANNING COMMISSION**

**Notice is hereby given that:**

Dennis and Jane Nipper, acting on behalf of the property owner, Williams & Nipper, LLC., have requested a conditional use permit to allow retail vendors an area of use on their business property located at 4 Xenia Ave. This property is located within the Central Business District and the primary use of the property is the BP gas station and convenience store. They are proposing spaces for three vendors along their north property line which is shared with the post office located on Corry Street. The Central Business District identifies carry-out food sales as a Conditional Use in Section 1256.03(d). Applicable Yellow Springs Zoning Code sections also include: Sec. 1268.06(p). Greene County Parcel ID #F19000100100004100. **A PUBLIC HEARING WILL BE HELD ON THIS PETITION: DATE:** Monday, June 10, 2013 **TIME:** 7:00 p.m. **LOCATION:** Council Chambers, 2<sup>nd</sup> Floor, Bryan Center, 100 Dayton Street, Yellow Springs, OH 45387

This notice provides you and every other interested party the opportunity to appear or have input at the hearing. You may come in person or have someone appear on your behalf. You may express your views in writing by providing a copy to the Clerk of Council for inclusion in the record of the hearing. The application, as prepared by the petitioners, may be examined at the office of the Village Planner on the 2<sup>nd</sup> floor of the Bryan Community Center, 100 Dayton Street, Yellow Springs, Ohio 45387. Questions regarding the applications, zoning code or procedures may be directed to the Village Planner at the same address, or by calling 937-767-3702. Tamara Ennist, Planning Assistant.



**Property Information and analysis:**

The property, located at 4 Xenia Street, is lot #20 & lot #21 of the Yellow Springs Subdivision and it measures approximately 292.31' (wide – SE property line along Xenia Street frontage) X 154.10' (deep-SW property line), and approximately 211' along the north property line shared with the post office, equaling approximately 23,000± square feet. Currently, this lot contains a BP Gas Station and Convenience Store. The applicant is applying for a conditional use permit to allow three (3) mobile food vendors along the north property line and two (2) non-food vendors at the southwest corner of the lot as accessory uses on this site.

**VARIANCE CRITERIA  
YELLOW SPRINGS ZONING ORDINANCE;**

**SECTION 1240.06 (PROHIBITED USES)** Within the Village, no lot, land, premises, place or building shall be used, and no building or structure shall be erected or placed, which is arranged, intended or designed to be used, in whole or in part, for any of the following specified uses:

**(D) More than one principally permitted use or structure per lot, whether involving residential purposes or not, unless approved by the Planning Commission. Appropriate standards, as determined by the Commission, shall be utilized in the Commission's review.**

**SECTION 1240.09 (DEFINITIONS).**

- (1) “Accessory Structure”** means a subordinate structure detached from, but located on the same lot as, the principal structure, the use of which is incidental and accessory to that of the principal structure.
- (2) “Accessory Use”** means a use incidental to, and on the same lot as, a principle use.
- (28) “Conditional use”** means a use that, owing to some special characteristics attendant to its operation or installation, is permitted in a district subject to approval by the Village Planning Commission and subject to special requirements which are different from those usual requirements for the district in which the conditional use may be located.
- (48) “Garage, service station”** means any land and building used for the supply of gasoline, oil or other fuel for motor vehicle propulsion. This definition can also include facilities for washing, polishing, greasing and otherwise servicing motor vehicles and for the sale of accessories.

**SECTION 1256 CENTRAL BUSINESS DISTRICT**

**Section 1256.02** Principally Permitted Uses.

**(c) Service-related establishments**

**Section 1256.03** Conditionally Permitted Uses

**(d) Drive-in / Drive-through / carry-out establishments**

**Section 1256.05 Accessory Structures** – Customary accessory structures are permitted provided that;

**(a) No structure shall exceed 500 square feet in size,**

- (b) No structure shall exceed twenty feet in height,
- (c) No signage or advertising shall be posted on any accessory structure,
- (d) The structure shall be located behind the principal structure on the lot and may be erected in the required rear yard if such structure occupies no more than thirty percent of the required rear yard.
- (e) No form of external lighting shall be used to illuminate an accessory structure, except for public safety purposes.

#### **SECTION 1272.01 PURPOSE**

Conditionally permitted uses typically represent more intensive or extensive land uses than are principally permitted in a given zoning district. The purpose of this chapter is to specify criteria against which to measure the proposal of a conditionally permitted development and, through such monitoring, to achieve compatible and diverse community development through a public and private project review partnership.

**SECTION 1256.08 OFF-STREET PARKING AND LOADING.** Principally and conditionally permitted uses, including drive-in commercial uses, shall abide by the off-street parking and loading requirements specified in Chapter 1268, except for the number of parking spaces required, which shall be as follows:

- (d) Lots larger than those listed above shall provide one off-street parking space for each 300 square feet of floor area on the ground floor. *(The convenience store is approximately 1770 square feet. This would require six (6) off-street parking spaces. The vendor structures, as accessory structures, are not to exceed 500 sq ft. each but are expected to use much less area. As there are four (4) additional off-street parking spaces shown and 1 is required for each 300 square feet of floor area, you could reason that the vendor floor area could not be greater than 240 square feet without requiring more parking.)*

#### **1272.04 STANDARDS FOR ALL CONDITIONAL USES.**

In addition to specific requirements for conditionally permitted uses, as specified in this chapter and elsewhere in this Zoning Code, the Planning Commission shall find adequate evidence that the number, location, and design of points of vehicular and pedestrian access to the site shall be such as to minimize threats to traffic safety and disruption of interference of existing traffic patterns and that the use proposed at a given location:

- (a) Will conform to all requirements of this Zoning Code and be in general accord with the Comprehensive Development Plan.
- (b) Will be adequately served by essential public facilities and services as measured against prevailing engineering standards for similar development;
- (c) Will not create excessive additional requirements at public cost for public facilities and services as measured against comparable facilities and services which would be needed to serve principally permitted uses;
- (d) Will not cause a public nuisance by creating, beyond the boundaries of the subject property, objectionable amounts of light, noise, smoke, odors, fumes, vibration or traffic;
- (e) Will not result in the destruction or damage of a natural or scenic feature of major importance which has been identified by either local or regional studies;

- (f) Will be designed so as to avoid diversion of watercourses or excessive run-off;
- (g) Will be adequately designed with respect to safety and with respect to off-premises impact, as evidenced by site development plans addressing:
  - (1) On-site traffic circulation;
  - (2) Lighting;
  - (3) Storm drainage;
  - (4) Landscaping;
  - (5) Ingress/egress of automobiles and pedestrians with respect to the site and existing and proposed structures;
  - (6) Parking; and
  - (7) Waste handling and storage.

**STAFF RECOMMENDATION:** That the Village of Yellow Springs Planning Commission review this application and, if deciding to approve the conditional use, determine the number of vendors that will be permitted and the number of off-street parking spaces necessary for the uses.

In addition, I would recommend that the following standards, mainly as identified by Ed Amrhein last year, be considered as well;

- 1) That for a period of \_\_\_ year, a maximum of \_\_\_ mobile vendors is permitted on the lot at any one time, and that only in the locations approved by the Planning Commission. Upon expiration of this permit, the owner, if desired, shall apply for a new Conditional Use Permit according to the provisions of the Village Ordinances in force at that time.
- 2) That no individual vendor be allowed to exceed \_\_\_ sq. ft. in area.
- 3) That no mobile vendor obstructs access to any other permitted use in the CBD.
- 4) That mobile vendors permitted along the southwest property line be restricted to a height of \_\_\_ feet so that they will not visually interfere with the neighboring use.
- 5) That all required off-street parking spaces are clearly marked, and that access to them be maintained at all times, per 1268.03(c).
- 6) That any additional signage, if allowed, meets all requirements for a sign permit in the CBD and not block sightlines to any other business or property.
- 7) That all items related to the vendor's business are stored inside a secure structure or off-site when the business is not operating.
- 8) That the vendor's apply for the applicable vendors permit, identifying their name and contact information which will be forwarded to the Village Finance Director for tax reporting and collection purposes.
- 9) That the property owner must be able to confirm that the vendors have obtained all necessary business licenses and any required certifications from the Greene County Combined Health District.

VILLAGE OF YELLOW SPRINGS  
PLANNING COMMISSION MINUTES

May 23, 2012

In Village Council Chambers

**CALL TO ORDER**

Chair Matt Reed called the meeting to order at 7:01 p.m.

**ROLL CALL**

Matt Reed, Tim Tobey, John Struewing, Bill Bebko, Alternate Chris Till, and Council Representative Lori Askeland were present. Assistant Village Planner Ed Amrhein was present as the Staff representative. Interim Village Manager Laura Curliss was also present.

**REVIEW OF AGENDA**

Public Hearings were moved to follow the Review of Minutes.

**REVIEW OF MINUTES**

Struewing MOVED and Till SECONDED a MOTION to APPROVE the Minutes of January 9, 2012 AS WRITTEN. The MOTION PASSED 5-0 ON A VOICE VOTE.

**NEW BUSINESS**

**Conditional Use Hearings**

Reed described the process to the group, stating that they would hear a summary regarding the first property in question from Amrhein, then deliberate as a Commission, then open the floor, and finally return the debate to Planning Commission for a decision. This process, Reed stated, will be used with each property in sequence.

Amrhein noted that all three hearings refer to the Central Business District (CBD), and that the relevant code citation is 1256.08(D), specifying drive-in, drive-thru and restaurant carryout businesses. Amrhein explained that the responsibility for obtaining a conditional use permit lies with the property owner because the permit stays with the property, not with the vendor.

Amrhein pointed out other code citations relevant to some of the applications, such as accessory structures, parking requirements: 1268, 1272, and 1256 will all be referenced.

Amrhein summarized the first conditional use item as follows:

**1) 101 S. Walnut St. (Corner Cone)**

~~For the past two winters, while the Corner Cone was closed for the season, an Indian food service has occupied the kitchen, offering a limited carry-out menu. During said operations, an enclosure of wood framing and plastic sheeting was added to the front of the ice-cream vending area beneath the building overhang. Since the seasonal re-opening of the Corner Cone this spring, the Indian carry-out food has been offered from a converted RV-style trailer located on the east side of the parking lot, just south of the Corner Cone building.~~

- ~~6. That sidewalks and other public rights-of-way not be obstructed by any activity related to the vendors' business(es).~~
- ~~7. Any additional signage meets conditions for a sign permit in the CBD and does not block sight lines to any other business or property.~~
- ~~8. The conditional use expires with any change of property ownership.~~

~~Tobey SECONDED the MOTION. Reed CALLED THE VOTE, and the MOTION PASSED 5-0 on a ROLL CALL VOYE.~~

- 2) **4 Xenia Ave. (BP gas station).** Amrhein detailed the situation, as follows:

Beginning last summer, the owners have permitted the operation of a mobile, carry-out food vendor on their lot. Originally, the vendor set up in the S.E. corner of the lot. Following comments from an adjacent business owner, the food service operation was relocated to the N.W. corner of the lot, and has proceeded to operate from that location on most weekends. No formal complaints were received by the Zoning Office about the above situation.

Recently, a second food vendor has been permitted set up on the lot during weekends. The second vendor has alternated between two locations on the lot, sometimes setting up in the S.E. corner, (at the original location of the first vendor), sometimes beside the first vendor, against a curb that separates the lot from the exit drive of the Post Office. Though no formal complaints have been conveyed directly to the Zoning office, such complaints have been noted by the Police Department. The complaints have included obstruction of the visibility of an adjacent business and the smell associated with frying food.

Section 1268.06(p) stipulates that service stations must maintain a minimum of six off-street parking spaces. The proposed Conditional Uses, if approved would require two additional spaces. At the advice of Amrhein, the owner submitted a plan indicating seven spaces.

Amrhein noted that he failed to communicate to the owners that they would need to allow for two additional parking spaces, and that this information would be new to them as of tonight.

#### **Staff Recommendations:**

1. That **for a period of one year**, a maximum of two mobile food vendors is permitted on the lot at any one time, and only in locations approved by Planning Commission. Upon expiration of this Permit, the owner, if desired, shall apply for a new Conditional Use Permit according to the provisions of Village Ordinances in force at that time.
2. That no individual vendor be allowed to exceed 500 square feet in area, per 1256.05(a).
3. That no mobile vendor obstructs access or sightlines to any other permitted use in the CBD. This means that the vendor would not be permitted to use the space at the S.E. corner of the lot and would be required to set up next to the other vendor, against the curb adjacent to the Post Office drive. This will also require the owner to re-design the proposed layout of parking spaces.
4. That all required off-street parking spaces be clearly marked, and that access to them be maintained at all times, per 1268.03(c).
5. That any additional signage meets all requirements for a sign permit in the CBD, and not block sightlines to any other business or property.
6. That all items related to the Vendor's business are stored inside a secure structure or off-site when the business is not operating.
7. That the Vendor's name and contact information are reported to the Village Finance Director on an annual basis, so that the Village may forward the information for tax reporting and collection purposes.

6. That sidewalks and other public rights-of-way not be obstructed by any activity related to the vendors' business(es).
7. Any additional signage meets conditions for a sign permit in the CBD and does not block sight lines to any other business or property.
8. **The conditional use expires with any change of property ownership.**

Tobey SECONDED the MOTION. Reed CALLED THE VOTE, and the MOTION PASSED 5-0 on a ROLL CALL VOTE.

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7. That the Vendor's name and contact information are reported to the Village Finance Director on an annual basis, so that the Village may forward the information for tax reporting and collection purposes.

8. That property owner must be able to confirm that vendor has obtained all necessary business licenses and any required certifications from the Greene County Combined Health District.

Reed asked about the "secure structure" aspect of the recommendations, and was informed by Amrhein that this is in response to the tent structure which may invite vandalism or theft because it leaves property accessible.

Reed opened the Public Hearing.

Dennis Nipper, applicant and part-owner of the BP, asked for clarification regarding the requirement for parking.

Amrhein explained that he is recommending that Planning Commission disallow the vendor(s) at the southeast corner of the BP lot in favor of allowing spaces for vendors at the northwest corner of the lot. Doing this would open back up the four spaces at the southeast corner, eliminating any issue with parking spaces.

A discussion around sightlines and signage ensued, with Amrhein noting that the neighboring property is engaged in a principally permitted use, and that the principally permitted use trumps a conditionally permitted use, ergo, a vendor cannot obstruct sightlines to the neighboring property.

Nipper commented that he favors placing vendors on the southeast corner of the lot because those four spaces are frequently used by persons who are not patronizing his establishment.

In answer to a concern from Nipper regarding a perceived inequity, Amrhein noted that the zoning regulations exempt businesses which have fewer than 80 feet of frontage from having to provide any off-street parking.

Nipper noted that he has hosted vendors for several years, without complaint or any issues of vandalism. He argued that the parking areas on the southeast corner are less safe than those on the northwest corner, and that the vendor(s) should locate on the southeast corner.

Struewing suggested a compromise which would limit the height and square footage which would enable vendors to locate on the southeast corner, including elimination of the tent structures.

Askeland suggested Planning Commission deal only with the issue of food vendors at this meeting.

Villager Scott Warren commended the Nippers for their entrepreneurship, and commented that food odor should not be an issue because there is much that is offensive to many citizens but which continues to exist around town. Warren expressed skepticism that vendors block visual access to the neighboring store, and sympathy for the misuse by others of their parking spaces, and urged Planning Commission to support the Nippers in their CUP request.

BP Employee Carlo Taylor stated that he has recently purchased a food truck, and asked that Planning Commission not remove a potential source of income to him and others as an entrepreneur.

Villager Maria Thornton, who is completing a mobile kitchen, asked for clarification as to which property owners must provide additional off-street parking if they host vendors. Amrhein explained the difference between conditional use and principally permitted use in general.

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In answer to a question by Thornton, Reed explained that mobile food vendors are not currently listed in the zoning code, and thus must be dealt with on a case-by-case basis.

Thornton opined that mobile food vendors bring excitement and drive-up business. Villager Paul Beck expressed support for the Nippers' request, but noted that he wouldn't want to see two large mobile vendors on the property.

Isaac Delamatre spoke against preemptive regulation of vendors.

Nipper responded to Struewing's earlier suggestion regarding elimination of tents as a possibility for permitting vendors on the southwest corner of the lot, arguing that the vendors would be unduly affected by the elements if this were enacted.

Property owner Bob Baldwin spoke to the general issue of vendors in Yellow Springs. He stated that he supports a festive atmosphere, but not a carnival atmosphere in the downtown area. Baldwin characterized the issue of vendors as a balancing act, noting that many long term business people who own or rent struggle to make a living, and pointing out that the number and type of vendors does need to be regulated. Baldwin brought up areas of concern, including insurance, liability and tax responsibility, supporting some degree of regulation, but noting that property owners to this point have done a good job of screening their vendors.

Resident Eric Smith spoke in support of allowing the tents, stating that citizens should be trusted to do the right thing.

Co-owner of the BP station, Jane Nipper spoke at length regarding the situation, expressing her frustration with drivers who misuse the parking lot, and with the neighboring shop owner.

Reed closed the public hearing.

Interim Village Manager clarified the issue regarding parking regulations, and reiterated that, per the zoning code, permitted uses always take precedent over conditional uses. Curliss noted that every new conditional use requires a new application with the Village Manager's office, after which the request is moved to Planning Commission.

Curliss pointed out that vendors on the southwest corner of the lot are blocking not only a permitted use, but are blocking signage, which is yet another permitted use.

Till received clarification that areas by the pumps are not considered parking areas.

Amrhein advised Planning Commission that they have the authority to determine the number of parking spaces required as well as determining any other conditions of the use of the property. Amrhein reiterated staff recommendations.

Askeland proposed that the group address only the issues related to food vendors, and address only the suggestion that the maximum of two vendors be located at the northwest corner.

Struewing stated that he was inclined to permit not only the two vendors at the northwest corner, but also two smaller footprint vendors at the southeast corner. Struewing noted the importance of setting a height limitation in the southwest corner.

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Tobey noted the awkward nature of the property, and acknowledged the struggle business owners have in controlling their parking areas. Tobey agreed with Struewing's suggestion, stressing the need to regulate height and size--but not use--in the southeast corner.

Bebko pointed out that the food vendors add a "nice ambiance" to the Village, stating his belief that the more food establishments available, the more people are attracted to the area. Bebko acknowledged that odors can be a problematic issue.

Bebko brought up another suggestion, assuming that the bay window on the property to the south is to the front of the building, that only the easternmost vendors would need to be restricted as to height.

Bebko noted also that most of the traffic to the food vendors is walk-up traffic, and stated that he supports approving up to four vendors with height restrictions.

Reed approved of Struewing's suggestion, but agreed with Askeland that they should approve two additional spots (on the southeast side) for only non-food vendors.

Curliss joined the discussion, pointing out to Planning Commission that they have before them a request for two food vendors only. She noted that the desire to have two additional vendors permitted in the southeast corner is a verbal request only, and added that each additional vendor requires one additional off-street parking space.

Curliss explained that as analyzed, the BP lot can readily accommodate two vendors and two additional parking spaces (one is required for each vendor).

Struewing stated that it was his belief that Planning Commission has the right to amend the parking requirements. Amrhein apologized for misspeaking.

There followed some confusion regarding what items were brought legitimately for approval, given the imprecision of the map submitted by the applicant, his stated desire for up to four vendors, and the written application stating the desire for two food vendor sites.

Struewing suggested that the group rule on the current request, and ask the applicant to return with a new request for the southeast corner.

Reed called for a motion to Table, given the level of indecision.

Curliss asked whether PC would be willing to hold a special hearing on the additional use requested verbally by the Nippers.

Till suggested holding a special conditional use hearing.

The Clerk suggested that Planning Commission proceed with a vote to approve the conditional use for food vendors and wait for separate request from the property owners to consider any use in the southeast corner, as suggested earlier by Askeland.

Planning Commission agreed to proceed in this fashion.

Askeland requested that no vendor be permitted to exceed 10 feet in height and 15 feet in length.

The Commission then discussed size and height requirements, debating the necessity of this restriction, given the location in the northwest corner only.

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The Commission then discussed size and height requirements, debating the necessity of this restriction, given the location in the northwest corner only.

Askeland requested that no individual vendor exceed 200 square feet in area.

The Clerk was then requested to read back the conditions for the conditional use at 4 Xenia Ave., and stated those as follows:

1. That no individual vendor be allowed to exceed 200 square feet in area.
2. That the Vendor's name and contact information are reported to the Village Finance Director **within seven days of occupation of the conditionally approved space and on an annual basis thereafter**, so that the Village may forward the information for tax reporting and collection purposes.
3. This conditional use expires with any change of ownership.

Curliss clarified for the Nippers that they do not now have permission to permit vendors on the southeast corner of the lot.

Struewing **MOVED** to accept the following changes:

To condition #2: That no individual vendor be allowed to exceed 200 square feet in area.

To condition #7: That the Vendor's name and contact information are reported to the Village Finance Director **within seven days of occupation of the conditionally approved space and on an annual basis thereafter**, so that the Village may forward the information for tax reporting and collection purposes.

To condition #9: That this conditional use will expire with any change of ownership.

Bebko **SECONDED** the MOTION. The MOTION PASSED 5-0 ON A ROLL CALL VOTE.

#### **REPORTS**

There were no Reports.

#### **COMMUNICATIONS**

Planning Commissioners Journal  
Tim Tobey re: Northern Gateway

#### **CITIZEN COMMENTS**

There were no Citizen Comments.

#### **OLD BUSINESS**

There was no Old Business.

#### **AGENDA PLANNING**

Amrhein informed the group that there was nothing as yet for the June meeting.

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# CONDITIONAL USE APPLICATION FORM

Village of Yellow Springs, Ohio

1272

As required by Section 1125.0256 of the Village Zoning Code: All applications shall be in writing and filed with the Zoning Administrator at least 14 days prior to a regularly scheduled Planning Commission meeting. A public hearing will be scheduled where the Commission will render a decision on the application. Prior to approval of the application, the Planning Commission shall make an affirmative finding that pertinent provisions of the Village Zoning Code have been met or exceeded. A fee of \$35.00 must accompany this application.

Permit Number 2013-16 4-25-13  
Applicant Name: Williams & Tupper LLC  
Applicant Address: 4 Xenia Ave  
Property Owner: Williams & Tupper  
Property Description: General Location in Village: Cornel of Xenia Ave & Cory Ave.

Parcel number: \_\_\_\_\_ Zoning District: \_\_\_\_\_

Present Use of Property: C-Store & Gas Station

Description of Proposed Conditional Use: Permit to have  
Conditional Use of Space for Vendors

On property. Three mobile food vendors on the north property line & two non-food vendors at the south west portion of the lot.

The following information *must* accompany this application:

1. A site plan indicating the location and dimensions of all buildings; parking and loading areas; pedestrian, bicycle, and auto circulation; bicycle storage areas; open spaces and landscaping; refuse collection points; storm drainage plan; location of existing utilities and where new hook-ups will be located and; signs.
2. A map showing land use by individual parcel within 100 feet of the lot lines of the subject site.
3. A map showing significant natural features of the site including notations of existing trees over eight inches in diameter.

*Please Note: no application will be processed and set for the required public hearing until the associated fee and required information has been received.*

RECEIVED:

Search Results

Map Layers

Property Information

Additional Property Information

Parcel ID F19000100100004100  
Owner Name WILLIAMS & NIPPER LLC

Property Address 4 XENIA AVE  
Mailing Address 634 ROBINWOOD DR  
YELLOW SPRINGS OH 45387

Legal Description YELLOW SPRINGS ATL  
LOT 21

Class COMMERCIAL  
Land Use 439

Appraised Bldg \$144,400.00  
Appraised Land \$56,310.00  
Appraised Total \$200,710

Total Taxes \$5,094.79  
Taxes Owed \$3,834.69  
Delinq Taxes: \$0.00

Sale Date 1/6/2006  
Sales Amount \$570,000.00

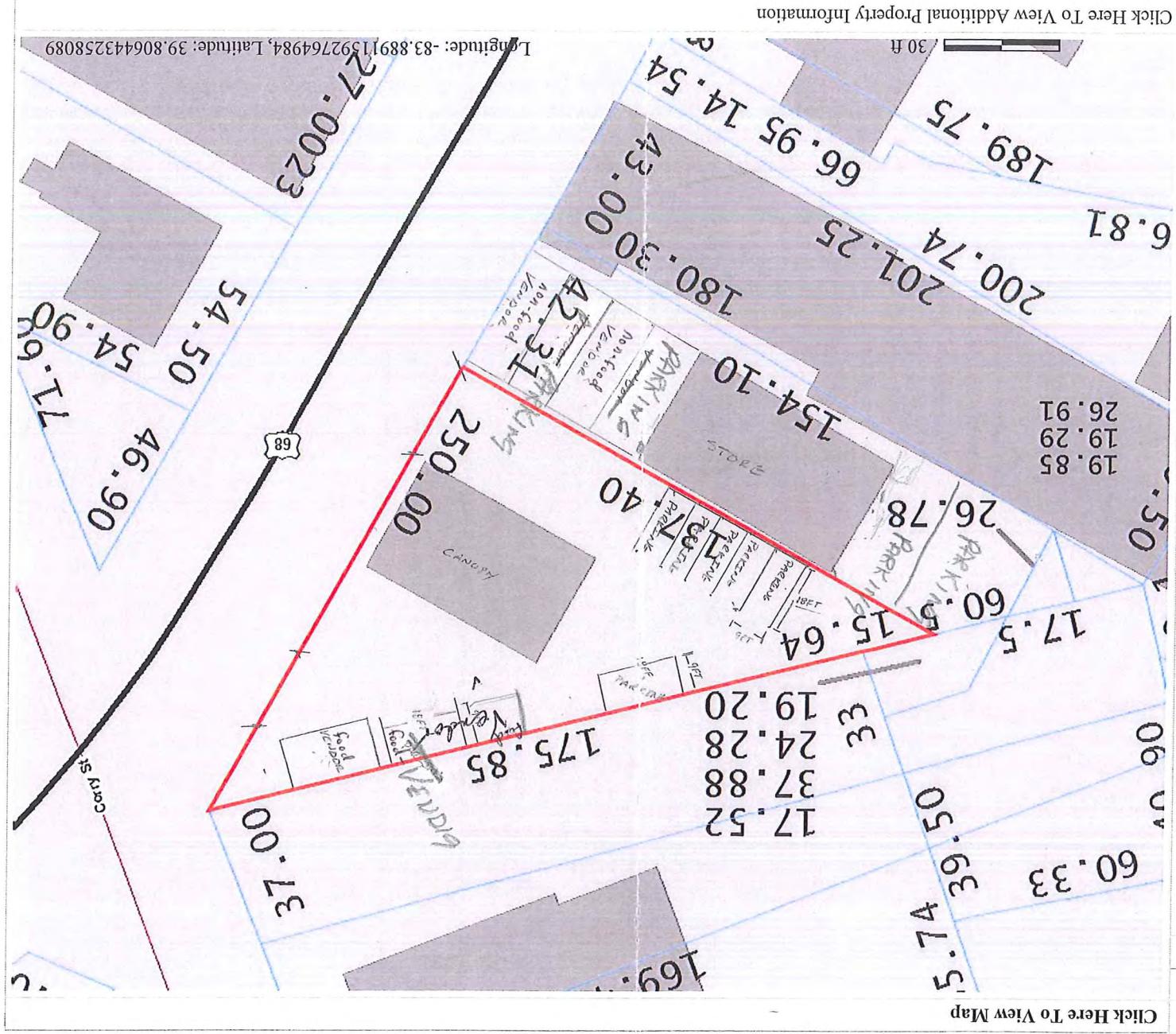
Neighborhood 00326000  
Zoning

Deed Volume/Page 2522 / 0568  
Survey Record /

Cabinet Vol/Pg 31/247A-B  
Taxing District YELLOW SPRINGS VII



Click here to enlarge image



Click Here To View Additional Property Information

Longitude: -83.88911592764984, Latitude: 39.806443258089

9 FT wide 18 FT long

MEMO

TO: Planning Commission  
FR: Laura Curliss, Village Manager  
RE: ADA Parking Requirements for Businesses  
DATE: June 7, 2013

Per Al Kuzma, Greene County Dept. of Building Regulation, here are the requirements for handicapped parking for businesses:

1-25 parking spots	One Handicapped parking spot Minimum of one must be Van Accessible
26-50 spots	Two Handicapped parking spots. Minimum of one spot must be Van Accessible

Thus, when considering conditional use permits for food trucks or other vendors that will be located in parking lots, please keep these ADA requirements in mind.

Thank you.

END OF MEMO

**-Public Notice-**  
**PUBLIC HEARING**  
**YELLOW SPRINGS, OHIO**  
**PLANNING COMMISSION**

**Notice is hereby given that:**

Melanie R. Ricart, acting with acknowledgement of the property owner, Bruce Morgan, has requested a conditional use permit to establish a Montessori School in a Residence 'B' zoning district. The property is located at 107 Tower Court, Yellow Springs. Section 1250.03 identifies a school within the Residence 'B' zoning districts as a conditional use. Applicable Yellow Springs Zoning Code sections are: Sec. 1268.08(l). Greene County Parcel ID #F19000100080000400. **A PUBLIC HEARING WILL BE HELD ON THIS PETITION: DATE:** Monday, June 10, 2013 **TIME:** 7:00 p.m. **LOCATION:** Council Chambers, 2<sup>nd</sup> Floor, Bryan Center, 100 Dayton Street, Yellow Springs, OH 45387

This notice provides you and every other interested party the opportunity to appear or have input at the hearing. You may come in person or have someone appear on your behalf. You may express your views in writing by providing a copy to the Clerk of Council for inclusion in the record of the hearing. The application, as prepared by the petitioners, may be examined at the office of the Village Planner on the 2<sup>nd</sup> floor of the Bryan Community Center, 100 Dayton Street, Yellow Springs, Ohio 45387.

Questions regarding the applications, zoning code or procedures may be directed to the Village Planner at the same address, or by calling 937-767-3702. Tamara Ennist, Planning Assistant.



# Village of Yellow Springs

## BOARD OF ZONING APPEALS APPLICATION FOR VARIANCE

Residence 'B'

Name of Applicant: Melanie R Ricart for Childrens Montessori Cooperative

Phone: (937) 367-2659 Email: ys.cmco@gmail.com

Property Owner: Bruce Morgan

Phone: (530) 559-3535 Email: brucemgv@yahoo.com

Address of Proposed Project: 107 Tower Court, Yellow Springs

Greene County Parcel I.D. #: F19000100080000400

Description of Proposed Project: We would like to use this location as a small, private Montessori school.

The structure of the building/lot will not be altered. Our operating hours are M-F, 8am-4pm,

student hours are 830am-330pm.

On May 20, 2013 (date), Melanie Ricart

first approached my office applying for a zoning permit for the project described above. The application for permit was denied for the following reasons: The proposal will require a

- conditional Use Permit from the Planning Commission as well as variances for;
- 1) Sideyard setback (north) variance, 15' required (section 1250.02 TABLE)
  - 2) Lot area

Fee: \$35.00 Paid on: May 20, 2013 (date) Attach copy of check or receipt Check - US Bank Edward J. Ricart II

Zoning Administrator: \_\_\_\_\_ Date: \_\_\_\_\_

**PLANNING COMMISSION**

**MEETING DATE: June 10, 2013**

**STAFF REPORT: Tamara Ennist, Village Zoning Administrator**

**LOCATION:** 107 Tower Court

**ZONING DISTRICT:** Residence 'B'

**APPLICANT:** Melanie Ricart, Children's Montessori Cooperative

**PROPERTY OWNER:** Bruce R. Morgan, Trustee

**REQUESTED ACTION:** Request for a conditional use permit per Yellow Springs Zoning Ordinance Sections 1250.03 Table in order to establish a Montessori style pre-school for 12-14 students age 3-6 years old.

**HEARING NOTICE:** "Melanie R. Ricart, acting with acknowledgement of the property owner, Bruce Morgan, has requested a conditional use permit to establish a Montessori School in a Residence 'B' zoning district. The property is located at 107 Tower Court, Yellow Springs. Section 1250.03 identifies a school within the Residence 'B' zoning districts as a conditional use. Applicable Yellow Springs Zoning Code sections are: Sec. 1268.08(l)."

**GREENE COUNTY PARCEL ID:** #F19000100100013000.

**STAFF ANALYSIS OF THE APPLICATION:** The applicant is requesting a conditional use permit to establish a Montessori type pre-school in the Residence "B" zoning district for between twelve (12) and fourteen (14) students between the ages of three (3) and five (5) years old. The normal hours of operation listed in the application are from 8am-4pm. Per the table in Section 1250.03 of the Village of Yellow Springs Zoning Code, "Schools and Cultural Buildings" are listed as a conditional use. While the 'Schools and Cultural Buildings' use is the most similar use listed under Section 1250.03 Conditional Uses, it may be better to keep in mind that the actual use is closer to the use defined under definitions as a "Group child care center". Under Section 1272.05, specific standards are listed for conditional use permits approved for "Churches, and similar places of worship, **schools**, cultural buildings and other governmental buildings..." but while 'Standards for All Conditional Uses (Sec. 1272.04) would apply to either use, there are no specific standards listed for "Group child care center".

**Property Information and analysis:**

The property, located at 107 Tower Court, is lot #1 of the Fairview Subdivision and it measures approximately 75.00'(W) X 98.00'(D), equaling 7350 square feet (approx. 0.169 acre) Currently, this lot contains a one-family residential principle structure with an attached one car garage (1660 sq. ft. TTL). The applicant is applying for a conditional use permit to allow the property to be used for a Montessori type pre-school.

**VARIANCE CRITERIA  
YELLOW SPRINGS ZONING ORDINANCE;**

**SECTION 1240.09 (DEFINITIONS).**

**(25) “Child care facility (day care center)”** shall be defined as follows;

**A. “Family child care home”** means a private residence where care, protection and supervision are provided, for a fee, at least twice a week and to no more than six children at one time, including the children of the adult provider;

**B. “Group child care center, Class A”** means a building or structure where care, protection and supervision are provided, on a regular schedule, at least twice a week to at least seven and no more than twelve children, including children of the adult provider;

**C. “Group child care center, Class B”** means a building or structure where care, protection and supervision are provided on a regular schedule, at least twice a week to more than twelve children, including children of the provider.

**(28) “Conditional use”** means a use that, owing to some special characteristics attendant to its operation or installation, is permitted in a district subject to approval by the Village Planning Commission and subject to special requirements which are different from those usual requirements for the district in which the conditional use may be located.

**SECTION 1250.03 CONDITIONAL USES; LOT SIZE AND BULK REQUIREMENTS.**

**TABLE - Schools and Cultural Buildings in the Residence ‘B’ zoning district shows the following requirements;**

**Maximum Lot Coverage – 50%** [40% max for single-family residence] *(Current coverage is under 35%)*

**Minimum Lot Area – 10,000 square feet** [7,500 sq. ft for single-family residence] *(Current lot area is approximately 7700 square feet. Note: the proposed revised zoning code will only require 6,000 min. lot area for R-B districts)*

**Minimum Lot Width – 75 feet** [Single-family residence – Min. 50 feet] *(Current lot width is 75+ feet.)*

**Minimum Front Setback – 30 feet** [Single-family residence – Min. 25 feet] *(Current front setback is approximately 19-20 feet)*

**Minimum Side Setback – 15 feet** [Single-family residence – 5 feet min. / 15 feet total] *(Current side setbacks are approximately 3 feet (north side) / approximately 18 feet (south side)) [Note: The applicant is applying to the BZA for a variance from this standard.]*

**Minimum Rear Setback – 30 feet** [Single-family residence – 25 feet min.] *(Current rear setback is approximately 32 feet)*

**Maximum Building Height – 60 feet** [Single-family residence – 35 feet] *(Current building height is less than 20 feet)*

**Maximum # Stories Height – Four (4)** [Single-family residence - 2½ story max.] *(Current building is 1 story)*

## **SECTION 1272.01 PURPOSE**

Conditionally permitted uses typically represent more intensive or extensive land uses than are principally permitted in a given zoning district. The purpose of this chapter is to specify criteria against which to measure the proposal of a conditionally permitted development and, through such monitoring, to achieve compatible and diverse community development through a public and private project review partnership.

## **SECTION 1268.08 PUBLIC AND SEMIPUBLIC PARKING REQUIREMENTS.**

(l) Private pre-school child care centers – 1.0 off-street parking space required per 200 sq. ft. of floor area. *[Note: The applicant is applying to the BZA for a variance from this standard.]*

## **1272.04 STANDARDS FOR ALL CONDITIONAL USES.**

In addition to specific requirements for conditionally permitted uses, as specified in this chapter and elsewhere in this Zoning Code, the Planning Commission shall find adequate evidence that the number, location, and design of points of vehicular and pedestrian access to the site shall be such as to minimize threats to traffic safety and disruption of interference of existing traffic patterns and that the use proposed at a given location:

- (a) Will conform to all requirements of this Zoning Code and be in general accord with the Comprehensive Development Plan.
- (b) Will be adequately served by essential public facilities and services as measured against prevailing engineering standards for similar development;
- (c) Will not create excessive additional requirements at public cost for public facilities and services as measured against comparable facilities and services which would be needed to serve principally permitted uses;
- (d) Will not cause a public nuisance by creating, beyond the boundaries of the subject property, objectionable amounts of light, noise, smoke, odors, fumes, vibration or traffic;
- (e) Will not result in the destruction or damage of a natural or scenic feature of major importance which has been identified by either local or regional studies;
- (f) Will be designed so as to avoid diversion of watercourses or excessive run-off;
- (g) Will be adequately designed with respect to safety and with respect to off- premises impact, as evidenced by site development plans addressing:
  - (1) On-site traffic circulation;
  - (2) Lighting;
  - (3) Storm drainage;
  - (4) Landscaping;
  - (5) Ingress/egress of automobiles and pedestrians with respect to the site and existing and proposed structures;
  - (6) Parking; and
  - (7) Waste handling and storage.

## **1272.05 STANDARDS FOR SPECIFIC CONDITIONAL USES.**

In addition to meeting standards above and elsewhere in this Zoning Code, particularly Chapters 1268 and 1278, the Planning Commission shall find the following conditions met before approving a conditional use: *(While standards for a “Group child care center” are not specifically identified, this section does identify specific standards for schools.)*

(d) Churches and similar places of worship, schools, cultural buildings and other government buildings (conditional in Residence “A-1,” “A,” “B” and “C” Districts) may be approved if they meet the following conditions: *(The proposed draft zoning code, further classifies “schools” to mean ‘elementary, middle, and high’ under Specific Requirements of Conditional Uses.)*

(1) These uses shall have direct access to a primary or secondary or collector thoroughfare, as determined by the Village of Yellow Springs Thoroughfare Plan, and shall have no more than one access point onto any local street (if the applicant can give a reason why this will not cause a negative traffic impact on the adjacent neighborhood). *(Given the proposed changes shown in the draft zoning code, this condition may be directed more toward elementary, middle, and high schools. [Note: The applicant is applying to the BZA for a variance from this standard.]*

(2) All outdoor activity and recreational space shall be screened from adjacent residential property by an appropriate landscaped buffer of not less than four feet and not more than six feet in height. *(The property has a lot of vegetation that buffers the yard areas from the neighboring properties, including those across the street. In addition, there is a 6’ board fence, up to the garage, between the driveway and the property to the north; Existing buildings located on the Electro Shield property provide a buffer along the east property line; and landscaping on-site and on the property to the south, also owned by the same property owner, provides some buffer to this neighbor. The only area not fully screened is along the north property line from the rear of the garage to the rear lot line)*

(3) Parking areas shall be screened from adjacent residential property by an appropriate landscaped buffer of not less than four feet and not more than six feet in height. *(The applicant is not proposing to provide a parking area other than the driveway and the parking along the right-of-way.)*

(4) All exterior lighting shall be directed away from adjacent property and public rights-of-way. *(No additional lighting is proposed)*

(5) Where these uses are located in areas where the surrounding development has no parking in the front yard and structures are located close to the street, these uses shall locate parking areas to the rear of their structures. *(The surrounding development uses the front yard area for parking.)*

(6) The development shall cause no additional drainage or runoff from the site, and all drainage and runoff shall be handled on-site.

**STAFF RECOMMENDATION:** That the Village of Yellow Springs Planning Commission review the application and consider the use as a service to the residential community in which it is located. At the same time, the Board should consider the surrounding properties and provide whatever conditions it deems necessary to ensure that the rights of these individuals are not undermined.



June 1, 2013

**Re:**  
**Melanie Ricart-Montessori School**  
**Public Comment Period**

A Montessori School is a good idea. Siting it in a narrow, blind curve short street is a bad idea. We have at a minimum, valid safety and traffic concerns about siting the Montessori School in Tower Court. Most of concern is for the safety of the children (as well as foot and other traffic) in this tight traffic area and this needs to be looked at seriously. Kids and cars don't mix well. More cars/trucks in an already tight place is a hazard. Pulling out from Tower Court to West North College has always, already had inherent problems with a blind curves, a lot of foot traffic and bike traffic with the apartment complex not to mention a long hedge that hinders driving judgement. Other residents on Tower Court park their vehicles on the street many times and at times one direction is impassible due to the parking practices. When it is passable, cars are known to amazingly accelerate through that court. Then you throw more cars in the mix and children crossing the street to the school and you have real liability issues.

This school as much as it is perhaps needed or wanted, needs to be sited on a good visibility road with adequate anticipation of upcoming traffic behavior. It is really concerning that this location would even be allowed to proceed this far when other more desirable and spacious locations are available. There is also limited parking in this court and each home has a small onstreet parking space that can generally not be shared as its needed for the resident and their guests. Parking wars could arise.

**Questions/Concerns-**

Has anyone from zoning taken a look at this location and sat for any time at the area and watched the congested nature with just those that live there?

What is a residents' recourse if this is permitted and everyday living becomes encumbered and embattled with traffic and noise issues? What are ordinances for noise in a neighborhood? Certainly this will be louder than car radio ordinances, at times.

If the school expands or even at first has employees where will aides and other employees park?

How will the sewer collection system handle for this handle increased flow at the junctions and what is the recourse for homeowners if backups begin to occur in nearby homes?

Rental space for Montessori schools is frequently obtained from schools, churches, park buildings, community centers, apartment complexes, private school buildings, commercial type building that can handle the square foot requirement per child and parking not someone's residential rental house. Will this home even be equipped with exit lights, fire alarm pull stations, fire exits and lockable doors to prevent children from wandering out of the house?

What is the maximum class size?

What are area residents recourse if unreasonableness ( traffic etc) exists?

Is the school going to be affiliated with AMI or AMS?

Could we eventually be looking at bus transportation to the site?

What about the quiet nature of the court that many persons purchased a home there for?

The McElroys

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