

**VILLAGE OF YELLOW SPRINGS
PLANNING COMMISSION**

The Village of Yellow Springs Planning Commission will meet in regular session on Monday, October 12, 2015 at 7:00 PM in Village Council Chambers on the second floor of the Bryan Community Center, 100 Dayton Street, Yellow Springs, Ohio 45387

CALL TO ORDER

ROLL CALL

REVIEW OF AGENDA

REVIEW OF MINUTES

September 14, 2015 Minutes of Planning Commission

COMMUNICATIONS

COMMITTEE/COUNCIL REPORTS

CITIZENS' COMMENTS

PUBLIC HEARINGS

1) Conditional Use Application (Office/Lodging): 209 E. Herman Street - R-B Moderate Density Residential District. Jennifer Horner, applicant. Applicant is requesting an Office/Lodging Conditional Use located in an existing building. Parcel ID #F190001001400004600.

2) Text Amendments ó The Village of Yellow Springs is applying for modifications for the following zoning text items:

- a. Revision of Section 1282.05 regarding the regulation of non-conforming lots with existing structures of record:
- b. Revision of Section 1262.08 regarding the regulation of Home Occupations in Accessory Dwelling Units.

OLD BUSINESS

AGENDA PLANNING

Norah Burns re: Home Occupation Permit
Donna Haller re: Home Occupation Permit

ADJOURNMENT



TO: PLANNING COMMISSION
FROM: DENISE SWINGER, ZONING ADMINISTRATOR
RE: 10-12-2015 STAFF REPORT

Conditional Use Application – 209 E Herman St – R-B Moderate Density Residential District

Owner – Big Hut LLC, mailing address: 140 Miami Drive, Yellow Springs

Greene County Parcel ID #: F19000100140004600

Action Requested - Before purchasing the property at 209 E. Herman St, Jennifer Horner is seeking permission to locate her business, Creative Explorations, in this location. She has applied for a conditional use permit under section *1242.06 Uses Not Listed*. She is interested in using the property for *lodging and professional counseling services*. Both Bed & Breakfast establishments - 1262.08 (e) (2) and Professional Offices – (no specific conditions apply) are conditional uses in this zoning district.

Section 1242.06 Uses Not Listed states (a) A use that is not listed, either by right or by conditional approval, in a zoning district, shall not be permitted in that district and shall only be permitted in a district where it is specifically listed as either a use by right or by conditional approval; (b) If a proposed use of land or building ***is not specified by this code in any district***, the Village Manager or designee shall determine if the use is similar to a permitted or conditional land use authorized in the district in which the land or building is located. ***If the use is found to be similar, it may be established*** in accordance with the requirements and procedures established in the code for the similar use. The Village Manager or designee shall notify the Planning Commission of this action, who shall then determine if the code should be amended to specifically include the use; (c) Alternatively, the Village Manager *or designee may refer the determination to the Planning Commission in the first instance*.

Notification of Public Hearing – A Public Hearing notification was published in the Yellow Springs News and was mailed to abutting and adjacent neighbors of 209 E Herman St. in accordance with the Village’s zoning regulations.

Staff Analysis – The applicant currently operates Creative Explorations at 253 Xenia Avenue, Second Floor. She wants to relocate the business to the above address at 209 E. Herman St. Creative Explorations is a women’s personal retreat facility. Most of the time, Creative Explorations is booked for one or two clients staying an average of two days. Ms. Horner, a licensed independent social worker, typically provides clients with one or two, two-hour sessions during their stay.

Ms. Horner has indicated there will be no negative impact upon neighboring residents. She said the property is currently being used as a short-term rental unit, which is conditionally allowed in all 3 residential zoning districts. She indicated there will be minimal to no noise as sessions are held indoors.

There is ample parking available for one or two cars, and the operation will not increase traffic beyond what would be reasonable for a single-family residential property. She also indicated there is a spa and massage service business located two doors down at 221 E. Herman. A web search confirms this operation. To my knowledge there have been no complaints filed regarding this business operation, known as Moon Rose Massage and Spa, see <http://www.moonrosemassageandspa.com/>.

PLANNING COMMISSION DUTIES

Section 1262 gives the Planning Commission the power to hear and decide applications for conditional use permits to allow proper integration into the community. The Planning Commission may approve, modify, or deny any application. If the Commission approves the permit, it may impose time limitations and/or require that one or more things are done before the request is initiated.

CRITERIA: Conditional Use Requirements

Yellow Springs Zoning Ordinance

Section 1262.01 Purpose

Conditional uses are uses of land specifically permitted within a zoning district only with the approval of the Planning Commission, following a review of the use and its potential impact on its surroundings. These uses are generally consistent with the purpose of the zoning district in which they are permitted but, due to unique operational characteristics, may not be desirable or compatible in all locations within the district. Factors such as traffic, hours of operation, noise, odor or similar potential nuisance effects require that the conditional use be evaluated relative to its appropriateness on a case-by-case basis. This chapter establishes the review procedure for conditional uses and the general standards that must be met for all conditional uses. In addition, more specific requirements are established for certain individual uses, as necessary, to mitigate their potential negative impacts.

Section 1262.03 General Standards

Any request for a conditional use shall only be approved upon a finding that each of the following general standards is satisfied, in addition to any applicable requirements pertaining to the specific use:

- (a) The proposed use will be consistent with the intent and purposes of this zoning code and the vision, goals and recommendations of the Yellow Springs Comprehensive Plan and Vision: Yellow Springs and Miami Township.
- (b) The proposed use will comply with all applicable requirements of this code, except as specifically altered in the approved conditional use.
- (c) The proposed use will be compatible with the character of the general vicinity.
- (d) The area and proposed use will be adequately served by essential public facilities and services, as applicable, such as highways, streets, police, and fire protection, drainage structures, refuse disposal, water and sewers, and schools. The applicant or landowner will be required to install public utilities, streets or other public infrastructure as required by the Village, state or other agencies to applicable specifications. Dedication of said public infrastructure may be required.
- (e) The proposed use will not involve uses, activities, processes, materials, equipment and conditions of operations, including, but not limited to, hours of operation, that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odor or other characteristic not comparable to the uses permitted in the zoning district.
- (f) The proposed use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

- (g) The proposed use will not block sight lines from the right of way to existing signs or windows on the front or side of a building.

Section 1262.04 Conditions of Approval

Reasonable conditions may be imposed on the approval of a conditional land use in order to achieve the following:

- (a) Insure public services and facilities affected by the proposed use or activity will be capable of accommodating increased service and facility loads necessitated by the proposed use.
- (b) Insure that the use is compatible with adjacent conforming land uses and activities.
- (c) Protect natural resources; the health, safety, and welfare; and the social and economic well-being of those who will use the land use or activity under consideration; residents, business owners and landowners immediately adjacent to the proposed use or activity; and the community as a whole.
- (d) Relate to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
- (e) Meet the purpose of the zoning code, be in compliance with the standards established in the code for the land use or activity under consideration, and be in compliance with the zoning district standards.

Section 1262.08 Specific Requirements

There are no specific requirements for a professional office.

Section 1262.08 (e)(2) Bed and Breakfasts

- (a) A bed and breakfast shall not provide more than six guest rooms plus a common area for use by all guests.
- (b) A bed and breakfast establishment shall be located only in a detached single-family dwelling, designed and constructed for single-family use, which shall contain at least 1,500 square feet of useable floor area. For each guest room in excess of two, an additional 100 square feet of floor area shall be required.
- (c) The bed and breakfast shall be the principal residence of the owner or manager, who shall reside there when the bed and breakfast is in operation.
- (d) Meals shall be limited to breakfast and evening snack, and shall be served only to guests of the facility and members of the owner's family.
- (e) There shall be at least one off-street parking space provided for each guest room, in addition to the parking spaces required to serve the principal residence.
- (f) One sign, not exceeding four square feet, shall be allowed for identification purposes only and shall either be mounted on the front wall of the dwelling or placed within the front yard no closer than ten feet to the front lot line. Sign lighting shall be indirect and shielded from view off-site. Internally lighted signs are not permitted.
- (g) Cooking facilities shall not be permitted in bed and breakfast guest rooms.
- (h) Exterior refuse storage facilities shall be screened from view on all sides by a six-foot solid decorative fence, wall, vegetation or similar visual barrier.
- (i) In addition to the site plan required by this chapter, a floor plan of the dwelling unit and the use of each room shall be submitted with the conditional use application.

RECOMMENDATION

Staff recommends that the Planning Commission **APPROVE** the Conditional Use with the following findings of fact:

- The Conditional Use is in conformance with goals of the Village's 2010 Comprehensive Plan and the Vision: Yellow Springs and Miami Township visioning plan.
- The Conditional Use will not be detrimental to the health, safety and welfare of the village's residents.
- The Conditional Use is adequately served by essential public facilities.
- The Conditional Use is compatible with the surrounding character of the general vicinity.
- The Conditional Use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- The Conditional Use will not block sight lines.
- The proposal as presented complies with most of the requirements of the Village's Zoning Code.

As you can see, this conditional use does not meet all of the requirements of a bed and breakfast; the square footage of the single-family residence is less than 1,500 square feet, and the proposed owner will not make this her primary residence. However, this will not be operating as a bed and breakfast. It is a unique operation and straddles more than one zoning use. As there are not any specific requirements for a professional office, the conditional use does meet the requirements for off-street parking. The Planning Commission may want to review any potential signage to ensure the well-being of adjacent neighbors.

If you have any questions or if I can be of assistance please feel free to contact me at (937) 767-1702 or email at dswinger@yso.com.



Village of Yellow Springs
 100 Dayton Street, 45387
 PHONE: (937) 767-1702
 FAX: (937) 767-3720
Planning Commission
Application

Case #: 15-018 [OFFICE USE]

TYPE OF REQUEST: (Check one)

- DEVELOPMENT PLAN TEXT AMENDMENT
 CONDITIONAL USE MAP AMENDMENT

Conditional Use: OTHER (Please Specify): Retreat (Lodging with professional counseling services)

1. Property Address and/or Parcel ID: 209 E. Herman St.
 2. Property Owner: currently Rick & Chris Kristensen
 Address: _____ Phone: 937) 767-9900
 3. Description of request: See attachments

- Conditional use request description
- Greene County serial site map
- floor plan
- photos
- Creative Explorations Philosophy
- Creative Explorations Testimonials

The owner of this property and undersigned do hereby certify that the information and statements given on this application, drawings, and specifications are to the best of their knowledge, true and correct.

Signature of Applicant: Jennifer Horner Title: _____
 Address: 1173 Cardinal Dr, Enon, OH 45323 Date: 9/21/15
 E-mail: jhorner@creativeexplorations.net

DO NOT WRITE BELOW THIS LINE [OFFICE USE]

Zoning Classification: C-U

Fee: \$100.00

Hearing Date: 10/13/2015

Request Denied or Approved: _____

Chairman: _____

Attest: _____

Conditional Use Request: "Other"

Intent to purchase: 209 E. Herman St., Yellow Springs, OH 45387

Description of request:

I, Jennifer Horner, and my husband, Charles Sides, are the owners of 253 Xenia Avenue. This property presently houses two businesses: EdenWorld, a wellness facility, located on the first floor, and my business, Creative Explorations, a women's personal retreat facility on the second floor. It is our desire to sell our historical building in the hub of the Village and relocate Creative Explorations to a smaller, updated cottage located on E. Herman St.

As the website states, Creative Explorations is a process and a place. As a facility, Creative Explorations is designed to provide women with a sacred space for creative, contemplative introspection and renewal. The vast majority of women come as individuals and stay an average of two nights. As guests in the Village, these women contribute to the revenue of other businesses. They eat at the restaurants, shop at the retail stores, and utilize a variety of personal services, particularly those offered by health and wellness practitioners.

As a licensed independent social worker, I facilitate retreats. Typically, I work with a guest offering two hour sessions utilizing creative processes designed to facilitate deep insight and personal growth. An addendum of testimonials is attached to this application.

I am seeking permission from the Planning Commission to relocate Creative Explorations to 209 E. Herman Street, presently operating as Sunflower Cottage. This cottage is one of numerous establishments, including Bungalow on High, Elizabeth's Overnight, the Library Loft, Jailhouse Tower, Jailhouse Loft, Union Cottage and Village Guest House, which operates as a short stay lodging facility, not as a Bed and Breakfast facility, and is located in a high density residential district.

Similar to these other entities, Creative Explorations also provides lodging. It is distinguished from them by the offering of professional counseling services. Those who choose such services typically receive one or two, two-hour sessions during their stay.

Both Patti Bates and Denise Swinger have clarified that Creative Explorations does not neatly fit into any of the currently established categories of the Yellow Springs Village Zoning Code. It is somewhat similar to a B&B and somewhat similar to a professional office. It is in fact, a unique hybrid. When I originally registered the business with the State of Ohio in 2007, I spoke with a state attorney who researched the matter and could find nothing of its type in the state. He said that "Arizona and California are the only places that seem to have something similar." This was eight years ago and the concept has since grown. Our Village code however, does not have a pre-designated category for such a business model. It is my hope that the code is elastic enough to recognize and appreciate the services that are provided.

The following are reasons why I believe that the Commission can justify and permit this conditional use request.

1. There will be no negative impact upon the residents of the neighborhood or the environment.
2. 209 E. Herman St. currently exists as a short stay facility, which on the exterior is identical to what Creative Explorations will be. The only difference is the provision of professional services conducted in the interior with no impact on the neighbors.
3. Having lived in Yellow Springs, I can assure the Planning Commission that the disturbance will be less than what is usually experienced by having full time residents in close proximity. There will be no barking dogs, yelling or loud outdoor parties.
4. There will be no more traffic, and probably much less traffic than experienced by having full time occupants at that location. Additionally, Moon Rose, located two doors away at 221 E. Herman St. offers spa and massage service. One would assume that there are more comings and goings from that facility than would ever be generated by a private retreat.
5. The proposed use is completely compatible with the character of the vicinity.
6. I am aware that a conditional use permit has been granted to another professional who will be operating out of a building in a residential area of Dayton Street which is not an office building, is not a B&B and is not her personal residence.
7. There are numerous unique businesses operating in the Village. This is a feature that adds greatly to its desirability for both owners and visitors.

Philosophy

Do you sometimes wish that you had more clarity or a broader perspective on a particular issue? Most people tend to rely on their rational minds, and in doing so, often neglect the insight that can be gained from our intuitive/creative side. Facilitated sessions offer a gentle and playful experience of inner exploration through the use of a variety of creative mediums: drawing, symbol exploration, imaginative dialogue, vocal exploration and chanting, meditative movement, music and drumming, creative journaling and mindfulness exercises.

No matter how strong our spiritual, religious or philosophical beliefs may be, everyone, from time to time, finds herself feeling a bit overwhelmed or lost in the woods. At these times our trusted mental compass seems inadequate to guide us. As medical researcher, Jonas Salk stated, "Intuition will tell the thinking mind where to look next." Creativity is the perfect gateway to our own intuitive knowing and our broader spiritual understanding.

Carl Jung was among the many great thinkers, religious and otherwise, who believed that we are inwardly Whole, but that we lose contact with important aspects of ourselves. It is in the process of making conscious those submerged and neglected parts that we can integrate the bits and pieces and discover more fully who we really are.

For example, if you are a professional person, you most likely are heavily invested in your professional image. Do you allow yourself to play? Can you risk doing "something silly"? No matter whether you are a graphic designer, a software programmer, a musician, gardener, cook, technician, parent or teacher, you look for inspiration. You look for creative new methods to reach your objectives. Creative thinking experts suggest in one way or the other that you PLAY! Get "outside the box!" Shake things up and look from a different perspective! Anthony Robbins, author and speaker famously declared, "If you do what you've always done, you'll get what you've always gotten." If you want things to be different, you must first look from a different angle.

Facilitated sessions provide a platform where you can relax, and explore the wisdom of the various aspects that are you. Our sessions together provide an opportunity to uncover and reconnect with your essential self, and to deepen an attitude of trust and appreciation for the natural unfolding process of your life's journey. Sessions help you to recognize, nurture and allow your inner source of creative wisdom to come alive and mature. Each person is a unique composite of roles, relationships, temperaments and histories. All of us are inclined to seek authenticity and wholeness. By attending to insights presented from those aspects of ourselves that are often overlooked in favor of "being rational and practical," we restrict the fullness of perspective that is uniquely ours. Our rational minds certainly hold seeds of truth, but it is not the whole truth. The Divine Mystery IS a mystery. We are all detectives looking for meaning and seeking clues to "the next step" on this grand adventure through life!

Everyone knows that stress is reaching epidemic proportions. Experts say that stress reduction and creativity both require quiet, reflective solitude. Come to Creative Explorations and give yourself the gift of time, the gift of facilitated reflection and the gift of restoration.

Testimonials from guests who experienced retreat facilitation services

“Go to Creative Explorations! It is the best thing ever! Go and let Jenny guide you to your own insights. Absolutely amazing! Go and engage with everything, and watch the synchronicities swirl around you, and feel the alignment of the universe and your place in it!” Leslie

“Jenny was fully available to all that was birthing within. It wasn’t just the one-on-one sessions, but also her presence during my entire time while in Yellow Springs. She was flexible with the timing of events and even went out of her way to provide requested resources. Jenny’s facilitation isn’t a job, but a ministry that radiates from her presence.” *Therese*

“My soul has been yearning for this experience. I am grateful for the insights and awakenings I have experienced with you in this sacred space. I now have the courage to face my fears with the spirit within me. You have a true gift to connect with another soul and guide along the way – going with the flow of spontaneity, creativity and synchronicity.” *Ami*

“This retreat was very good! I sometimes feel like we are pulling a splinter out of my heart. I know it will hurt, but afterwards, I will feel better and start to heal. After having done counseling for years, I can always be sure to get the results here in a few hours that take years in therapy.” *Jill* (returning guest)

“I visited an island this weekend. One that was filled with love, a soothing spiritual force, and peace as if coming home. You, within this safe haven you have created, allowed me to look at the past and look into the future, all while living in the moment. You have given me the gifts of hope, clarity and choice of direction. Thank you for sharing this sacred place.” *Sally*

“You have given me a lot of springboards for my own personal exploration. Things I would not have been inclined to try on my own. Jenny, you were very open and caring – listening and questioning, but not judging.” *Linda*

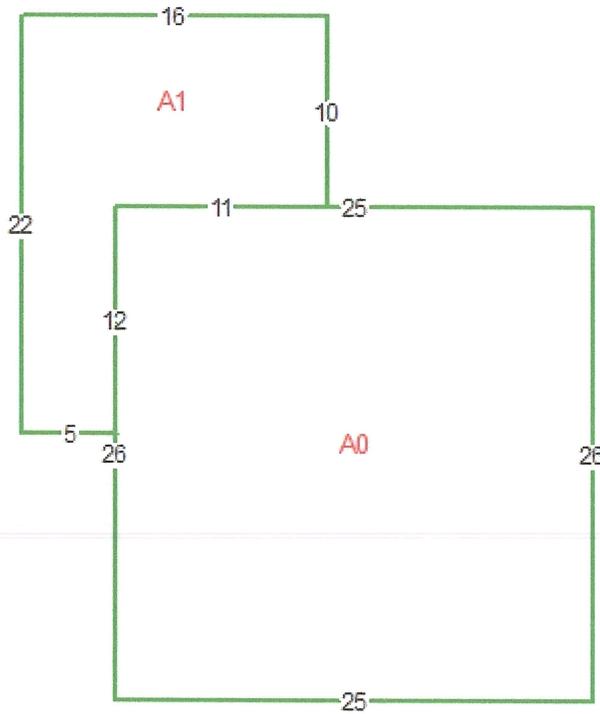
“What a pleasure it was to meet you! You have to be one of the most comfortable people to be with, almost like an instant friend whom I have known all of my life! You made me feel so comfortable, you managed to listen without any judgment, you lead and inspire in such a gentle way, and let me make my own conclusions based on my own work... I can tell you have years of practice, experience in being supportive, gentle and your insights are marvelous.” Deborah

The retreat was much more than I thought it would be. The drawings that I did were very surprising to me. Jenny was wonderful and very helpful in showing ways to see myself in a whole new way. I will recommend this retreat!!! Everything about this was wonderful! Kelly

I never imagined we were going to be using ALL of our own subconscious to lead our journey. This approach was PERFECT! All therapy needs to use this approach to help the person answer their own questions. Jenny was genuinely concerned and attentive and her process of drawing and use of symbols was amazing! Holly

Print Sketch  Print Sketch

Building Sketch(s) for BIGHUT LLC (F19000100140004600)

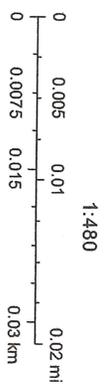


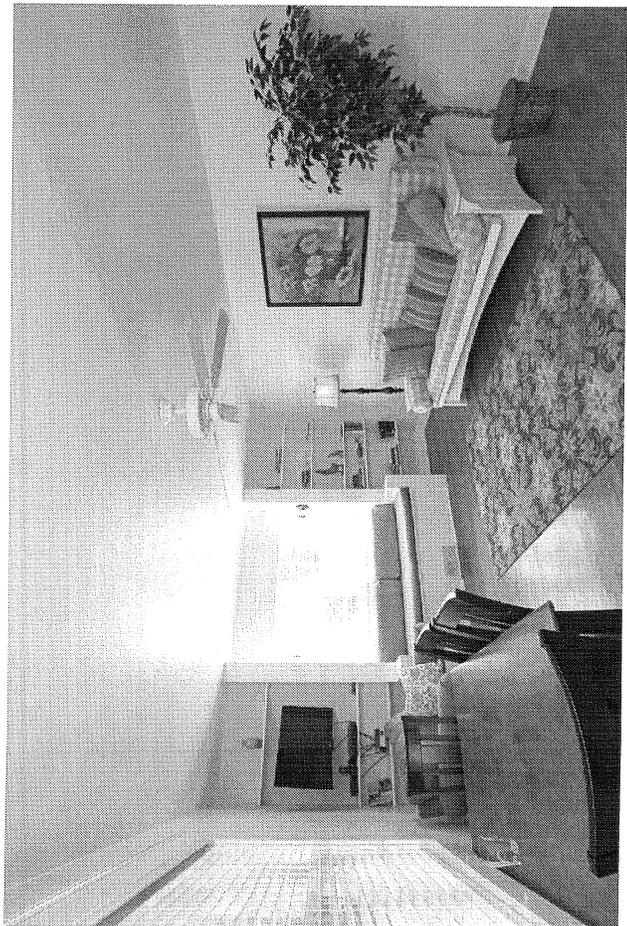
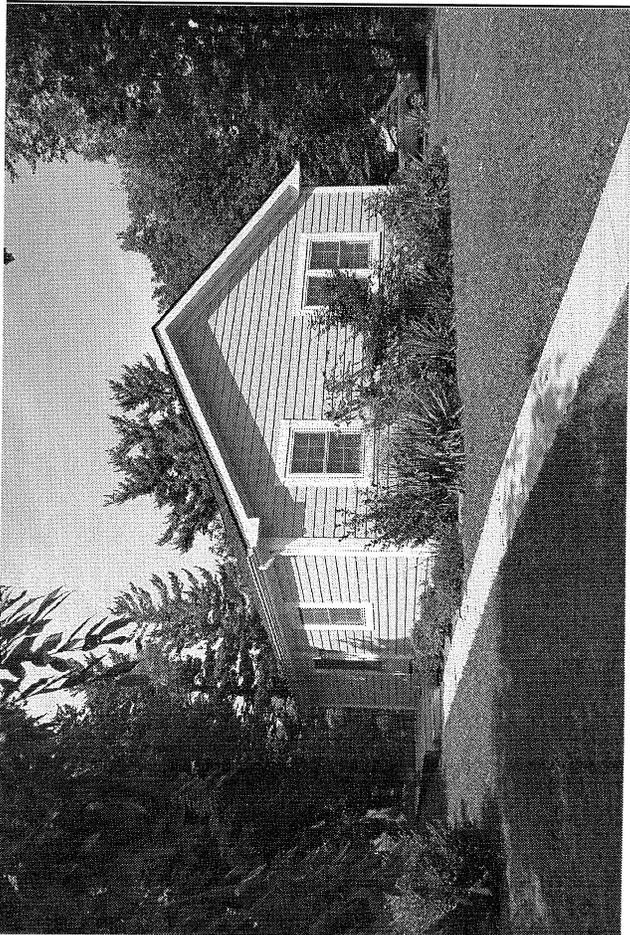
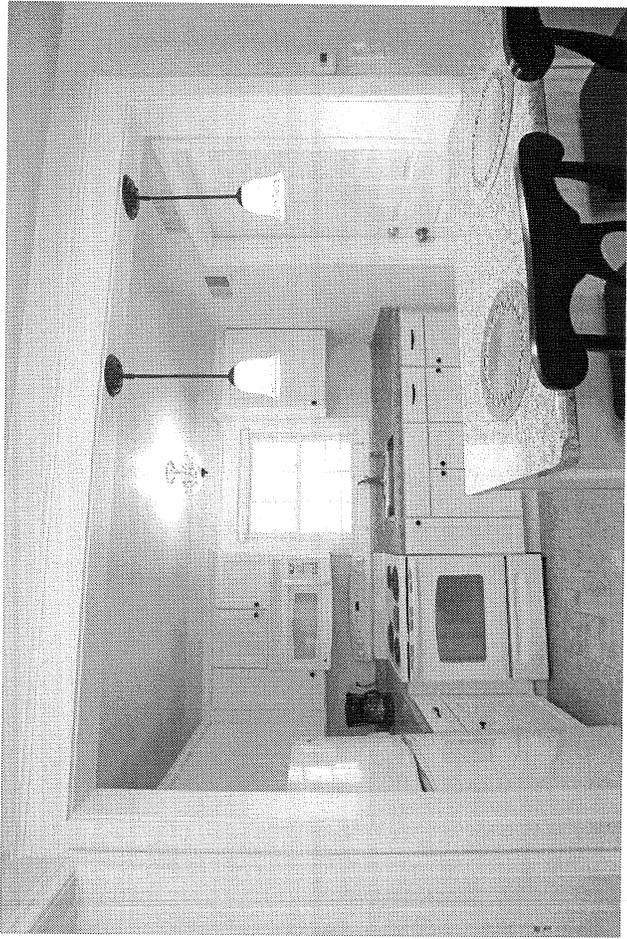
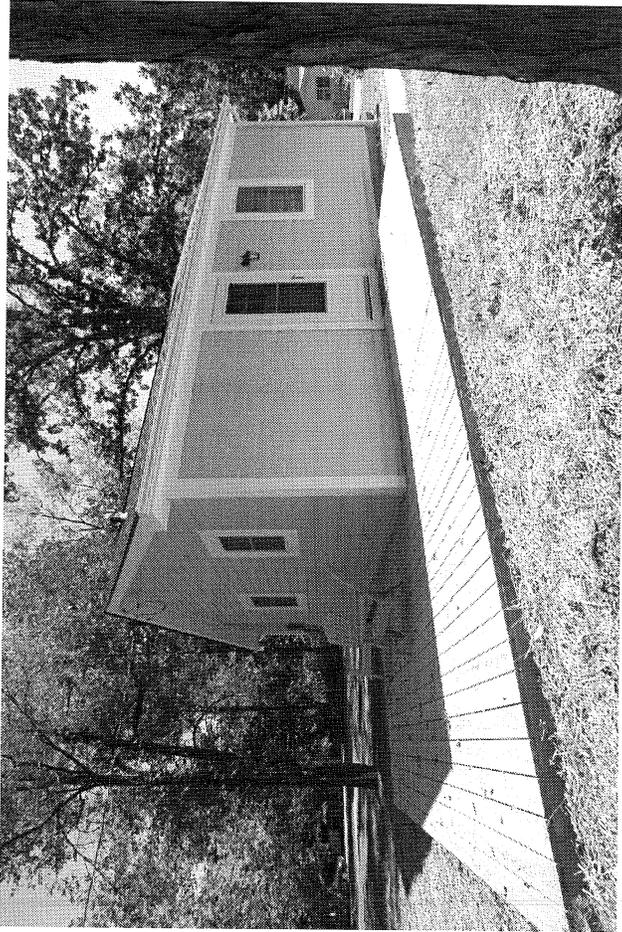
AREA VECTOR TYPE
650MAIN BUILDING
220WOOD DECKS

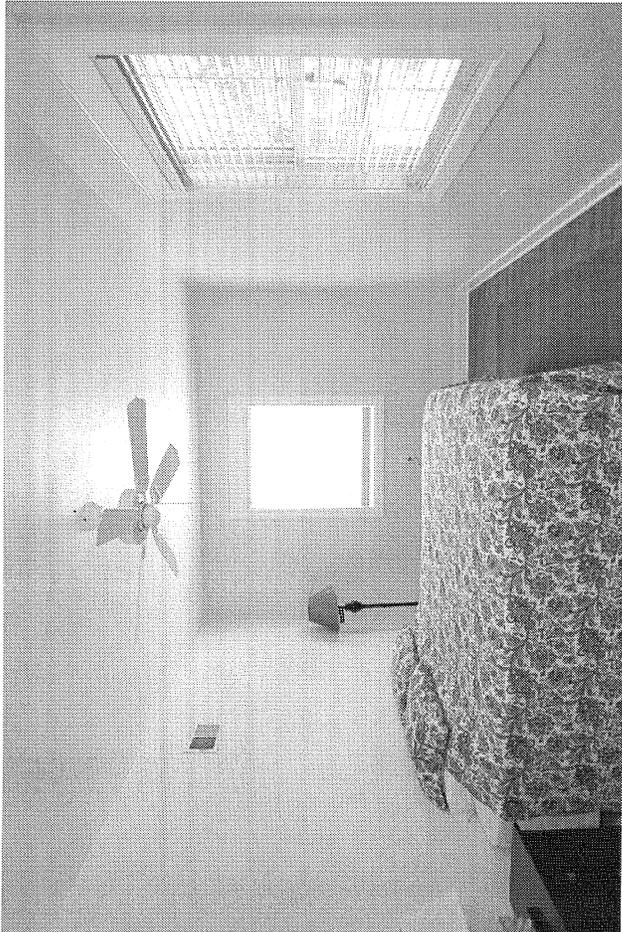
Greene County, Ohio



September 21, 2015









Print

Search Results Property Information Map Layers

Print PRC

Details

Parcel ID F19000100140004600
 Owner Name BIGHUT LLC

Property Address 209 E HERMAN ST
 Mailing Address 140 MIAMI DR
 YELLOW SPRINGS OH
 45387

Description WM MILLS 1ST ADDITION
 REPLAT
 LOT 624A
 209 E HERMAN ST

Class RESIDENTIAL
 Land Use 510
 Acres

Appraised Bldg \$44,740.00
 Appraised Land \$27,380.00
 Appraised Total \$72,120
 Total Taxes \$1,633.91
 Taxes Owed \$855.86
 Delinq Taxes: \$855.86
 Sale Date 11/29/2011
 Sales Amount \$68,300.00
 Neighborhood 00128000
 Zoning
 Survey Record /
 Cabinet Vol/Pg 36 / 349A-350A
 Taxing District YELLOW SPRINGS VIL



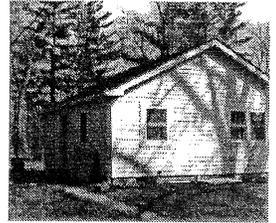
Parcel ID: F19-0001-0014-0-0046-00

Tax Year: 2014

Card: 1 of 1

Owner: BIGHUT LLC
 Mailing Name/Address:
 BIGHUT LLC
 140 MIAMI DR
 YELLOW SPRINGS OH 45387
 Tax District: F19 - YELLOW SPRINGS VIL

Description: WM MILLS 1ST ADDITION REPLAT
 LOT 624A
 209 E HERMAN ST
 Property Address: 209 E HERMAN ST
 Class: R - SINGLE FAMILY DWELLING, PLATTED LOT
 Map/Routing: 0014.00 004.00
 Neighborhood: 00128.000
 Parcel Tieback:



F19000100140004600 03/13/15

LAND DATA		Effective	Square		Value
Desc	Type	Frontage	Depth	Footage	Acres
Regular Lot	FRONT FOOT	59	170		\$27,380.00

SALES DATA

Sale Date	Type	Amount	Source
12/14/2012	LAND & BUILDING	\$0.00	AGENT
11/29/2011	LAND & BUILDING	\$68,300.00	BUYER
01/15/1999	LAND & BUILDING	\$59,000.00	AGENT
08/30/1990	LAND	\$0.00	AGENT

DWELLING DATA

Style	BUNGALOW	Total Rooms	3	Masonry Trim Area	
Story Hgt	1.00	Bedrooms	1	Unfin Area	
Construct	FRAME	Family Rms	0	Rec Room Area	
Year Blt	1950 Remod	Full Baths	1	Fln Bsmt Area	
SFLA	650	Half Baths	0	WBFP Stacks	Open
GFLA	650	Add'l Fixt	2	Bsmt Garage # Cars	
Basement	CRAWL	Total Fixt	5	Misc Desc	
Heating	CENTRAL	Bath Remod	NO	Misc Desc	
Heat Fuel	GAS	Kitch Remod	NO	Condo Level	
Attic	NONE			Condo Type	
Int vs Ext	2				

VALUES	Land Value	Bldg Value	Total Value	Value Date
Appraised	\$27,380.00	\$44,740.00	\$72,120.00	12/19/2014
Assessed (35%)	\$9,580.00	\$15,660.00	\$25,240.00	

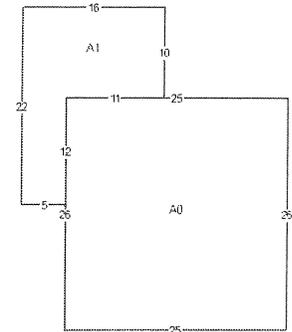
TAXES	Delinquent	1st Half	2nd Half	Total
Real:	\$855.86	\$778.05	\$855.86	\$2,489.77
Special	\$0.00	\$0.00	\$0.00	\$0.00
Total:	\$855.86	\$778.05	\$855.86	\$1,633.91
Amount Due:				\$855.86

PROPERTY FACTORS

Topography	Utilities	Street/Road	Traffic
LEVEL	ALL PUBLIC	PAVED	LIGHT

ADDITION DATA

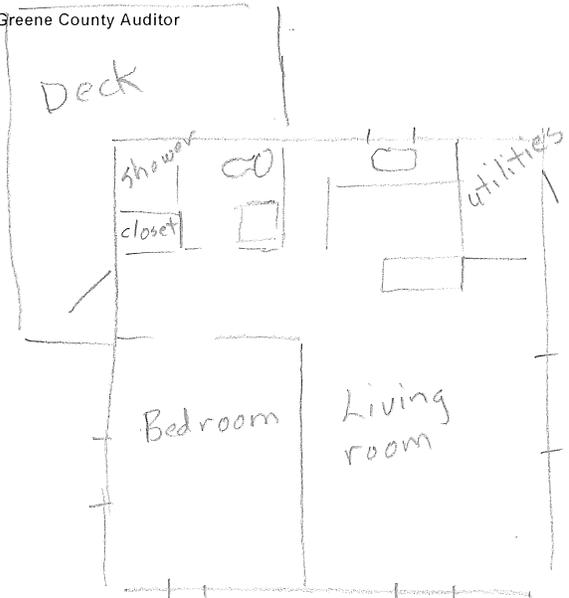
#	Lower	First	Second	Third	Area
A0		MAIN BUILDING			650
A1		WOOD DECKS			220



OTHER BUILDING & YARD ITEMS

Description	Yr Blt	Area	Rate	Units	Value

David Graham, Greene County Auditor





STAFF REPORT

Planning Commission Meeting – October 12, 2015

APPLICATION NUMBER: 15-015 RE: Non-Conforming Lots & 15-017 RE: HOP in ADU

APPLICANT: Village of Yellow Springs

TYPE OF REQUEST: Text Amendments

BACKGROUND:

The Village Planning staff has found that there are some sections of the code that need to be cleaned up or approved. Below is a summary of proposed changes:

- 1.) Allowing construction of accessory buildings, fences, additions on adjacent non-conforming lots.
- 2.) Allowing home occupations in accessory dwelling units in zoning district R-C.

REQUIREMENTS:

Section 1280.02(a) of the Village Code of Ordinances highlights the decision criteria for a text amendment. Not all of the criteria may apply to the text amendment:

- (1) clarify the intent of the code;
- (2) correct an error in the code;
- (3) address changes to state legislation, recent case law or opinions from the Attorney General of the State of Ohio;
- (4) affect the implementation of the Yellow Springs Comprehensive Plan and the Vision: Yellow Springs and Miami Township document;
- (5) promote compliance with changes in other county, state or federal regulations;
- (6) in the event the amendment would add a use to a district, that use would be fully consistent with the purpose of the district and the character of the range of uses provided for within the district;
- (7) not create incompatible land uses within a zoning district;
- (8) be supported by the findings of reports, studies, or other documentation on functional requirements, contemporary building practices, environmental requirements and similar technical items;
- (9) if applicable, be consistent with the Village's ability to provide adequate public facilities and services; and
- (10) be consistent with the Village's desire to promote the public health, safety, convenience, comfort, prosperity and general welfare of the community.

PLANNING COMMISSION DUTIES

The Planning Commission may make recommendations of approval, denial or conditional approval to the Village Council regarding the right-of-way vacation request.

FINDINGS

Staff found that regulations clarifying the construction of non-conforming lots and operating home occupations in accessory dwelling units were compliant with the requirements above.

DISCUSSION

The discussion is divided in several sections regarding each amendment.

1.) Non-conforming lots

This proposal arose out of the discussion to create a “zoning lot.” Staff has found that the process for enforcing this as a formal application exceeds the resources available to staff. Previously John Yung proposed a text amendment that would grant exemption to interior lots owned by the same entity only for non-principal structures. The regulation is crafted to allow properties that are made up of a series of non-conforming lots or adjacent to non-conforming lots to be counted as one lot for those purposes only. This would allow the property owner more flexibility with their land without requiring a replat. The language is crafted to not include a series of buildable lots. At the last meeting, this was tabled to allow more time for the solicitor to review the language. After reviewing the language in more depth and discussing the proposed language with the Village Manager, staff recommends the amendments as presented by John Yung.

2.) Home occupations in accessory dwelling units in zoning district R-C High Density Residential

Home occupations in accessory dwelling units are currently a conditional use in zoning districts R-A and R-B. The code doesn't mention R-C so by its omission the interpretation is that it is not allowed. It could be interpreted that it was not in R-C because of the high density of that residential zoning district, but there are a number of locations where the density is not any different than R-B. For example, Xenia Avenue from Limestone to Allen Street has a number of large lots, some larger than their abutting neighbors in R-B. Because this application is a conditional use, an opportunity to have a public hearing with input from neighbors before the Planning Commission is always an option. After contacting Matt Reed and Lori Askeland about this omission, both thought it was an oversight and should have been allowed.

RECOMMENDATION

The text amendments proposed have been properly advertised with notification of a public hearing to be held Monday, October 12, 2015. Staff recommends approval of the amendments to non-conforming lots presented by John Yung at the August 31, 2015 meeting. Staff also recommends the text amendment regarding home occupations in accessory dwelling units be allowed in R-C High Density Residential. If these text amendments are favorably voted on, they will be sent to Council with the Planning Commission's recommendation for approval.

If you have any questions or if I can be of assistance please feel free to contact me at (937) 767-1702 or dswinger@vil.yellowsprings.oh.us.

1282.05 Nonconforming Lots of Record

- (a) A lot of record that exists at the time of adoption or amendment of this code that does not meet the minimum requirements for lot width or lot area may be used for any permitted use in the district in which the lot is located, provided that any building or structure constructed on the lot complies with all other requirements of the zoning district. The nonconforming lot may also be used for conditional uses, if it meets all applicable requirements for those uses.
- (b) Adjoining nonconforming lots of record or nonconforming lots adjoining conforming lots that are owned by the same property owner of record shall be counted as a whole for the purposes of erecting accessory structures, additions, fences and signs if the following criteria are met:
- (1) An existing principal structure is located on the property and was constructed prior to the adoption of this zoning ordinance.
 - (2) The proposed improvement must comply with existing zoning setback regulations for the exterior portions of the adjoining lots not owned by the same property owner.

1262.08 Specific Use Requirements

(5) Home occupation.

A. Permit. Application for a home occupation permit shall be made to the Zoning Administrator, together with payment of such fee as may be established by Village Council. The requirement for a permit shall be waived if all of the following conditions apply to the home occupation: the proposed home occupation will not employ any persons other than residents of the dwelling; the home occupation is such that it will not generate customers, clients or visitors to the home; there will be no sign on the property identifying the home occupation and all other provisions of this section shall be met.

B. If the Zoning Administrator cannot determine if the home occupation conditional use requirements are met, in his or her sole discretion the Zoning Administrator may refer the matter to the Planning Commission for a conditional use hearing in accordance with the procedures of this chapter.

C. The use shall be conducted entirely within the dwelling, with the following exception(s):

1. The use may be conducted entirely within a garage or accessory building unattached to the dwelling in property zoned R-A, ~~or R-B~~ or R-C as long as the use is not prohibited in a Planned Unit Development, recorded deed restrictions or other similar applicable recorded restrictions upon the parcel.

2. Any dwelling, garage or accessory building used in the home occupation shall comply with all other applicable Village ordinances and requirements and shall not be nonconforming with respect to lot, width and dimensional requirements.

D. The use shall be carried on only by the residents of the dwelling and not more than one other person.

E. The use of the dwelling for a home occupation must be clearly accessory, incidental and subordinate to the permitted principal residential use, and shall not utilize more than 20% of the usable floor area of the principal dwelling or its equivalent if conducted within an accessory building, or 250 square feet, whichever is less.

F. The appearance of the dwelling shall not be altered, nor shall the occupation within the dwelling be conducted in any manner that would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting or the emission of sounds, vibrations or light that carry beyond the premises.

G. No outdoor storage, activities or displays shall be permitted.

H. No combustible, toxic or hazardous materials may be used or stored on the premises, except in a safe manner and in full compliance with all Federal, State and other governmental requirements concerning the use, handling, transport, storage and disposal of any such materials.

I. There shall be no activity that would interfere with radio or television transmission in the area, nor shall there be any offensive noise, vibrations, smoke, dust, odors, heat or glare noticeable at or beyond the property line. The use shall not create a nuisance for the public and any surrounding property.

J. Traffic generated by the combined home and home occupation shall be compatible with traffic normally expected in a residential district. Vehicles used in the home occupation or making deliveries shall be no larger than utility vehicles commonly used for noncommercial purposes, i.e, pick-up trucks, vans, panel trucks and the like and parcel package delivery trucks.

K. The home occupation shall not entail more than eight client visits per day or 40 per week. The operator of the home occupation is responsible for maintaining a log of such visits.

L. Parking of motor vehicles shall be limited to one vehicle used for the home occupation per parcel. Parking generated by the conduct of the home occupation shall be provided for on the lot's driveway, which shall meet the minimum size requirements for off-street parking set forth in [Chapter 1264](#). Parking of motor vehicles generated by the home occupation are not allowed on the street or on any unpaved area of the lot.

M. In the event any of the above conditions or other conditions required by the Planning Commission are not met, the revocation process as set forth in Section [1262.06](#) shall take place.