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**MINUTES OF SYMMES TOWNSHIP BOARD OF ZONING APPEALS  
REGULAR MEETING  
MARCH 2, 2015**

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The meeting was called to order at 7:00 p.m. Members of the Commission present were: Mr. Flagel, Mr. Havill and Ms. Harlow.

Also present were: Bryan Snyder, Hamilton County Zoning Inspector and Luanne Felter, Zoning Secretary.

AGENDA

MS. HARLOW made a motion to approve the agenda. Mr. Havill seconded the motion and the roll call vote was as follows: Mr. Flagel – ‘aye’; Ms. Harlow – ‘aye’ and Mr. Havill – ‘aye’.

PUBLIC HEARINGS

MR. FLAGEL noted that only three Board members are in attendance. Since three affirmative votes are required for approval, the applicant may continue the meeting until April when more Board members will be present. The applicant appreciated the option but wanted to proceed.

MR. FLAGEL convened the public hearing for BZA 2015-01 for the property at 11251 Montgomery Road.

MR. SNYDER stated that Montgomery Community Church has requested Conditional Use approval for new signage in an “A” Residence District.

The applicant originally submitted a request to install 33 new directional signs. However, after the Board raised concerns about the excessive amount of signage the applicant agreed to modify the site plans. The updated site plans include a request to install 17 new directional signs throughout the church campus for lot numbering, entrance numbering, building identification and general way finding information.

The submission includes a request to install 11 freestanding signs for lot identification and way finding messages throughout the church campus and to mount four wall signs and two window signs on various church structures for building identification. Four of the parking lot identification signs will be two sided with one square foot of sign area and located within the parking areas on existing light poles. Six of the freestanding signs will be two-sided with seven square feet of sign area containing the church logo, messages or directions to various locations within the church campus. One freestanding sign will be two-sided with five point five square feet of sign area containing a building entrance message.

Five of the building mounted signs will contain six square feet of sign area indicating the entrance numbers, name of the entrance with the church logo and would be mounted next to the building entrances. A sign for the Student Center would include three square feet of sign area including the name of the building.

According to the applicant, the purpose of the signage is to help people navigate their way on campus and provide better traffic flow due to several church expansions.

MS. HARLOW wanted to know which signs would face Montgomery Road.

MR. SNYDER stated that freestanding signs identified as #2 and #20 on the site plans will be facing Montgomery Road.

JOHN SEDZIOL (11251 Montgomery Road, Cincinnati) stated that he realized that the number of signs they were requesting were a concern to the Board so he modified the site plan. The changes include cutting the guest parking signs from the front parking lot, mounting some of the identification signs to the buildings and reducing the size of the signs wherever possible.

MR. FLAGEL stated that the plan is much improved; however, there are still a lot of signs. He believes that the sign identified on the site plan as #20 is too close to the other signs and Montgomery Road. He also does not like signs #2, #8, #15 and #17.

MR. HAVILL agreed and stated that there are other signs that are not necessary such as #7, #8, #12 and #21. He believes that most of the signage is too redundant and suggested that the Board modify the site plan further.

MS. HARLOW suggested that signs #7 and #8 be combined.

MR. FLAGEL made a motion to consider the following:

RESOLUTION  
GRANTING  
APPEAL NO. 2015-01

WHEREAS, John Sedziol, 11251 Montgomery Road, Cincinnati, OH, Appellant, on December 29, 2014, filed Appeal No. 2015-01 under Section 383.1 of the Zoning Resolution, requesting that a conditional use be permitted for the property located at 11251 Montgomery Road, Symmes Township, Hamilton County, Ohio; and

WHEREAS, public hearings were held on said appeal on February 2, 2015 and March 2, 2015, notice of such hearings were given by first class mail to parties of interest and also by publication in a newspaper of general circulation in the Township at least ten (10) days prior to the date of said hearing in accordance with Section 303.15 of the Ohio Revised Code; and

WHEREAS, Section 41 et seq. of the Zoning Resolution and the Symmes Township District Maps designate said premises to be in the "A" Residence District; and

WHEREAS, Article XXXV provides, in part, that a church be permitted as a Conditional Use provided that it is properly integrated in the overall neighborhood and that said use shall be evaluated by the Board of Zoning Appeals on an individual basis; and

WHEREAS, according to testimony offered at the public hearing, the request is for the installation of seventeen (17) new directional signs throughout the church campus for lot numbering, entrance numbering, building identification and general way finding information; and

WHEREAS, according to further testimony offered at the public hearing, the subject property is located on the west side of Montgomery Road, south of East Kemper Road; and

WHEREAS, according to testimony offered at the public hearing, the applicant originally submitted a request to install thirty three (33) new directional signs. However, after the Board raised concerns about the excessive amount of signs the applicant agreed to modify the site plans; and

WHEREAS, according to further testimony offered at the public hearing, the applicant is proposing to install eleven (11) freestanding signs for lot identification and way finding messages throughout the church campus and to mount four (4) wall signs and two (2) window signs on various church structures for building identification; and

WHEREAS, according to further testimony offered at the public hearing, four (4) of the parking lot identification signs will be two sided with one (1) square foot of sign area and located within the parking areas on existing light poles; and

WHEREAS, according to further testimony offered at the public hearing, six (6) of the freestanding signs will be two-sided with seven (7) square feet of sign area containing the church logo, messages or directions to various locations within the church campus and one (1) freestanding sign will be two-sided with five point five (5.5) of square feet of sign area containing a building entrance message; and

WHEREAS, according to further testimony offered at the public hearing, five (5) of the building mounted signs would contain six (6) square feet of sign area and include the entrance numbers, name of the entrance and church logo and would be mounted next to the building entrances and the Student Center would include three (3) square feet of sign area including the name of the building; and

WHEREAS, according to further testimony offered at the public hearing, the signage is necessary to help people navigate their way on campus and provide better traffic flow due to several church expansions; and

WHEREAS, Section 385 and 386 provides for the General Considerations and Specific Criteria pertaining to Conditional Uses; and

WHEREAS, according to further testimony offered at the public hearing, the proposed directional signage would be partially consistent with the intent of the Zoning Resolution to allow reasonable site identification signage in appropriate locations. However, the number, size and location of the signs is unreasonable; and

WHEREAS, according to further testimony offered at the public hearing; the proposed directional signage would not have any adverse effect on the residential properties. However, the number, size and location of the proposed directional signs could set a precedent for other cases; and

WHEREAS, according to further testimony offered at the public hearing, there are no known features that affect the natural, scenic and historic features of significant public interest on the property; and

WHEREAS, according to further testimony offered at the public hearing, the existing church use is consistent with the adopted Symmes Township Land Use Plan; and

WHEREAS, according to further testimony offered at the public hearing, the proposed signage complies with the specific criteria as follows:

Section 386(e) provides that setbacks from any adjacent residential property line shall be a minimum of fifty (50) feet for all buildings and twenty five (25) for all parking areas. No new buildings or parking areas are proposed as part of this request; and

Section 386(h) provides that a vehicular use area shall be located and designed so as to minimize impact on the neighborhood. No improvements to the layout and design of the vehicular use area are proposed as part of this request; and

Section 386 (o) provides landscaping shall be installed with a buffer in accordance with the Zoning Resolution. Landscaping has already been installed for this site as part of previous BZA cases; and

Section 386 (p) (2) provides that one (1) sign is permitted at a maximum of twelve (12) square feet non-internally illuminated. The church has previously received BZA approval for a ninety five (95) square-foot electronic message freestanding sign along Montgomery Road. Some of the proposed signage would not be considered additional freestanding signage due to the message and location of the signs. However, the larger signs that include the church logo and building identification would be considered additional freestanding signs; and

Section 386(s) provides that all exterior lighting shall be directed away from adjacent residential properties. No new lighting has been proposed as part of this request; and

Section 386(y) provides that the intensity of the particular use shall be evaluated with regard to the location, size and configuration of the tract. The total development consists of the main church building, a student building and office building and a garage structure. The majority of the signage relates to uses that occur in the main church building;

WHEREAS, Section 381, empowers this Board to approve by resolution those uses listed as conditional uses; and

WHEREAS, Section 383.6 provides that the Board shall approve the conditional use, approve the conditional use subject to further specified approvals or modifications necessary to achieve full compliance with all standards, or disapprove the conditional use; and

WHEREAS, it is the consensus of this Board, after careful consideration of all the facts, testimony, and evidence submitted, the approval of a modification of the requested Conditional Use is appropriate at this particular location and in the particular matter proposed in that the proposed plan as modified by this Board complies with the standards and conditions set forth in Article XXXV of the Zoning Resolution; and

NOW, THEREFORE BE IT RESOLVED that upon consideration of the foregoing, the Symmes Township Board of Zoning Appeals does hereby grant a Conditional Use for Montgomery Community Church as per the plans submitted in accordance with the authority granted in Section 381 and does hereby determine that a conditional use and zoning certificate may be issued to the applicant consistent with the terms set forth in this Resolution; and

SUBJECT TO THE FOLLOWING CONDITIONS:

1. That, freestanding signs #2, #4, #6, #13, and #18 for lot identification and way finding messages be constructed and located exactly as shown on the plats and plans submitted to this Board; and
2. That, the building mounted signs for #3, #5, #10 and #19 and the window signs for #1 and #21 for building identification be installed and located exactly as shown on the plats and plans submitted to this Board; and
3. That, the proposed signs comply in all other respects with the Zoning Resolution and the lawful requirements of the Hamilton County Building Commissioner;
4. That, the proposed signs not be relocated or enlarged without the approval of this Board;
5. That, the proposed signs be maintained in a satisfactory condition at all times;
6. That, the Zoning Certificate and Building permit for the construction of the signs be obtained within ninety (90) days and all work be completed within one year (1) from the date of adoption of this Resolution;

BE IT FURTHER RESOLVED, that all plats, plans, applications and other data submitted be and are hereby made a part of this Resolution.

MR. HAVILL seconded the motion and the roll call vote was as follows: Mr. Flagel - "aye", Ms. Harlow - "aye", and Mr. Havill - "aye".

MR. FLAGEL convened the public hearing for BZA 2015-02 for the property at 12085 Montgomery Road.

MR. SNYDER stated that the request is for Conditional Use approval of a Transient Vendor in an "E" Residence District.

The applicant is requesting permission to extend a Conditional Use for the temporary sale of Christmas trees at Ed's Feed & Seed located at 12085 Montgomery Road from November 25<sup>th</sup> to December 21<sup>st</sup> annually for a period of 10 years.

The transient vendor sale of Christmas trees was approved by the Symmes Township Board of Zoning Appeals in 2000 with a condition that the applicant return to the Board after five years to renew the conditional use to allow the Board to review any negative impacts of the use on the surrounding properties. The applicant applied for this renewal in 2005 and was granted an extension of the use by the Board for 10 years as part of #2005-10. The applicant is now requesting approval of an extension to the transient vendor permit for an additional 10 years.

As indicated on the site plan, the tree sales area would continue to be located in front and to the rear of the existing commercial building. This area is used for the sale of materials and plants for the primary tenant during the spring, summer and fall seasons but is primarily vacant during the winter months. To date, we have not received any complaints.

ED DAVIS (12085 Montgomery Road) stated that he is the owner of Ed's Feed & Seed. He has been doing business with the applicant for over 10 years and has not had any issues.

MR. FLAGEL stated that he does not have a problem with the request and made a motion to consider the following:

RESOLUTION  
GRANTING  
APPEAL NO. 2015-02

WHEREAS, Brian Heikkinen, W6260 Camp Rice Point Road, Tomahawk, WI 54487, appellant, on January 12, 2015, filed Appeal No. 2015-02 with the Symmes Township Board of Zoning Appeals under Section 383.1 of the Zoning Resolution, requesting that a conditional use be approved to permit the continuation of transient vendor sales for the property located at 12085 Montgomery Road, Symmes Township, Hamilton County, Ohio; and

WHEREAS, a public hearing was held on said appeal on March 2, 2015, notice of which hearing was given by first class mail to parties in interest and also by publication in a newspaper of general circulation in the Township at least ten (10) days prior to the date of said hearing in accordance with Section 303.15 of the Ohio Revised Code; and

WHEREAS, Section 41 et seq. of the Zoning Resolution and the Symmes Township District Maps designate said premises to be in the "E" Retail Business District; and

WHEREAS, Article XXXV provides, in part, that the operation of a transient vendor is permitted as a Conditional Use provided that the temporary business activity is properly integrated in the overall neighborhood and that said use shall be evaluated by the Board of Zoning Appeals on an individual basis; and

WHEREAS, Section 394 provides for the specific findings of fact pertaining to a special zoning certificate for a Transient Vendor; and

WHEREAS, according to testimony offered at the public hearing, transient vendor sale of Christmas trees was approved by the Symmes Township Board of Zoning Appeals in 2000 with a condition that the applicant return to the Board after five (5) years to renew the conditional use to allow the Board to review any negative impacts of the use on the surrounding properties. The applicant applied for this renewal in 2005 and was granted an extension of the use by the Board for ten (10) years as part of case 2005-10. The applicant is now requesting approval of an extension to the transient vendor permit for an additional ten (10) years; and

WHEREAS, the subject property is located on the northwest side of Montgomery Road, northeast of Union Cemetery Road and currently operates as Ed's Feed & Seed; and

WHEREAS, according to further testimony offered at the public hearing, Sections 394 in Article XXXV, Conditional Uses, requires that a Transient Vendor only be authorized after the Board makes specific findings of fact, based upon evidence presented, that the temporary business activity is properly integrated in the overall neighborhood related to each of the following factors:

- a. Location of Sales –The tree sales area would continue to be located in front and to the rear of the existing commercial building. This area is used for the sale of materials and plants for the primary tenant during the spring, summer and fall seasons but is primarily vacant during the winter months.
- b. Size of the Business – The size of the Christmas tree sales would be no larger than the plant and material sales area of the primary tenant during the spring, summer and fall seasons;
- c. Location and Intensity of the Display Goods – The location and intensity of the tree sales area fits well into the overall site and would not be too intense for the overall flow and usability of the site;
- d. Parking Adequacy – The existing parking lot will not be used as a tree sales area. Therefore, the parking situation would be the same as the other months;
- e. Hours of Operation – The hours of operation were restricted to no later than 8:00 p.m. as part of the previous approval and there have been no complaints;
- f. Noise – There is very little potential for noise impacts on adjacent properties from this type of use. The noise would be no more than what is currently generated by the primary tenant;
- g. Access and Traffic Impact – The proposed use has access to Montgomery Road. The traffic generated by the proposed temporary tree sales would be no greater than the traffic from the primary tenant of the property;
- h. Duration of the Business – The duration of the temporary tree sales would continue to be between November 25<sup>th</sup> and December 21<sup>st</sup> annually;
- i. Compatibility with Adjacent Uses – The subject site is surrounded on all sides by other retail and office uses;

WHEREAS, according to further testimony offered at the public hearing, there have been no complaints from the abutting properties or residents of Symmes Township and the applicant has maintained the proper setbacks and signage regulations; and

WHEREAS, it is the consensus of the Board, after careful consideration of all the facts, testimony, and evidence submitted, that approval of the requested Conditional Use is appropriate at this particular location and in the particular matter proposed in that the proposed plan complies with the standards and conditions set forth in Article XXXV of the Zoning Resolution; and

NOW THEREFORE BE IT RESOLVED that upon consideration of the foregoing, the Symmes Township Board of Zoning Appeals does hereby grant a Conditional Use in accordance with the authority in Section 394 and does hereby determine that a Conditional Use and Zoning Certificate may be issued to the applicant consistent with the terms set forth in this Resolution; and

**SUBJECT TO THE FOLLOWING CONDITIONS:**

1. That, a Conditional Use and Zoning Certificate shall be issued wholly to Brian Heikkinen for the location at 12085 Montgomery Road and be non-

transferrable;

2. That, issuance of a Conditional Use and Zoning Certificate shall be valid for a ten (10) year period, starting with the year 2015 and ending with the year 2024 and shall be renewable for another ten (10) years provided no complaints have been received;
3. That, the issuance of a Conditional Use and Zoning Certificate shall be granted only if the existing business is owned and operated by Ed Davis;
4. That, the Conditional Use and Zoning Certificate shall be applicable for the sale of Christmas trees from November 25<sup>th</sup> through December 21 of each year;
5. That, the hours of operations be no later than 8:00 p.m.;
6. That, Christmas trees are stored in the areas designated on the submitted plan;  
and
7. That, no additional signage is permitted for this temporary usage.

BE IT FURTHER RESOLVED, that all plans, applications and other data submitted be and are hereby made a part of this Resolution.

MS. HARLOW seconded the motion and the roll call vote was as follows: Mr. Flagel – “aye”, Mr. Havill – “aye”, and Ms. Harlow – “aye”.

ADJOURNMENT

MR. FLAGEL adjourned the meeting at 7:40 p.m.

Approved: \_\_\_\_\_  
Luanne Felter, Secretary