

RESOLUTION

GRANTING

APPEAL NO. 2014-07

WHEREAS, Doug Sayer, Flower Emporium LLC, 1383 St. Rt. 28, Loveland, OH 45140, appellant, on April 7, 2014 filed Appeal No. 2014-07 with the Symmes Township Board of Zoning Appeals under Section 383.1 of the Zoning Resolution, requesting approval to operate a garden center at 10776 Loveland Madeira Road, Symmes Township, Hamilton County, Ohio; and

WHEREAS, a public hearing was held on said appeal on May 5, 2014, notice of such 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 an "E" Residence and "F" Light Industrial 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, the applicant is requesting approval to operate a garden center annually on the site of LA Supply from March 15th through July 15th to sell plants and flowers; and

WHEREAS, according to further testimony offered at the public hearing, the garden center would contain a nine hundred sixty (960) square-foot temporary greenhouse structure and a large table display area; and

WHEREAS, according to further testimony offered at the public hearing, the property is located on the south side of Loveland Madeira Road, just west of Lebanon Road; and

WHEREAS, according to further testimony offered at the public hearing, the garden center would be located in a gravel parking lot at the front of the property and situated between two access drives serving LA Supply; and

WHEREAS, according to further testimony offered at the public hearing, the property is currently used as a landscaping business with large bins for stone, rock, gravel, and mulch and contains a construction landfill; and

WHEREAS, according to further testimony offered at the public hearing, the applicant is requesting signage over the main entrance of the greenhouse, a temporary freestanding sign along the roadway, and a banner to announce the opening of the center for the first 30 days of operation; and

WHEREAS, according to further testimony offered at the public hearing, Section 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 temporary sales activity is located in an "E" Residence District which is permitted as of right. The proposed location

of the temporary sales area would likely improve the appearance of the otherwise industrial site by screening an existing construction trailer and by locating flowers and plants in a gravel area that is currently used for parking and storage of stone and rock;

- b. Size of the Business – The proposed layout of the temporary greenhouse and sales area would fit well into an area between the two access drives serving the property. The site would include sufficient parking and would not increase the amount of the site being used for commercial and industrial purposes.
- c. Location and Intensity of Display – The location and intensity of the display 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 – Vehicles will be parked in an existing gravel parking area to the east of the proposed sales area. The identified parking area appears adequate for temporary seasonal sales;
- e. Hours of Operation - The hours of operation will be from 9:00 a.m. to 8:00 p.m. No residential properties would be impacted by the proposed use;
- f. Noise - There is no loudspeaker system; the site is located in an industrial and commercial corridor so there should be no issues with noise;
- g. Access and Traffic Impact - There would be no change to the circulation pattern of the site. Two existing driveways would be utilized for the proposed temporary sales activity. Also, since the operation is small there would not likely be any impact on traffic flow in the retail and industrial corridor area;
- h. Duration of Business – The site would be limited to garden center sales between March 15th and July 15th annually. The four month period is consistent with other conditional uses granted by the Board for temporary flower sales in Symmes Township.
- i. Compatibility with Adjacent Uses - All of the adjacent properties on the south side of Loveland Madeira Road are zoned and used for commercial or industrial activities. The properties on the north side of Loveland Madeira Road are zoned residential but are vacant and the properties have steep slopes. The proposed use would be compatible with adjacent uses.

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, 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 moves to approve the Conditional Use for the property located at 10776 Loveland Madeira Road 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, the proposed temporary garden center be allowed to operate annually for a period of three years from March 15 through July 15 during the hours of 9:00 a.m. to 8:00 p.m.;
2. That, the greenhouse structure for the proposed temporary garden center not exceed nine hundred sixty (960) square feet;
3. That, a sign over the door of the temporary greenhouse not exceed eight (8) square feet in size and a sign placed along the roadway not exceed thirty two (32) square feet;
4. That, the temporary garden center not be relocated or enlarged without the approval of this Board;
5. That, the temporary garden center remain exactly as shown on the plats and plans submitted to this Board;
6. That, the proposed temporary garden center comply in all other respects with Symmes Township regulations and the lawful requirements of the Hamilton County Building Commissioner;

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

ADOPTED at a regularly scheduled meeting of the Symmes Township Board of Zoning Appeals in session this 5th day of May 2014.

Mr. Flagel – ‘aye’, Ms. Harlow – ‘absent’, Mr. Havill – ‘aye’, Mr. Misrach – ‘aye’, Mr. Ruehlmann – ‘aye’, Mr. Wolfe – ‘aye’

APPROVED: MAY 5, 2014

Brian E. Elliff
Township Zoning Inspector

Ralph Wolfe, Board Chairperson