

## **COLERAIN TOWNSHIP BOARD OF ZONING APPEALS**

Regular Meeting

4200 Springdale Road - Cincinnati, Ohio 45251

**Wednesday, February 24, 2016 – 6:30 p.m.**

1. Meeting called to order.  
Oath of Office.  
Election of officers.
2. Pledge of Allegiance.
3. Explanation of Procedures.
4. Roll Call.
6. Swearing in: appellants, attorneys and all speakers in the cases.
7. Hearing of Appeals:
  - A. Case No.: BZA2016-01 – Expansion of Non-conforming Use & Side Yard  
Setback Variance – Article 9.2 & 11.8.1  
Location: 7968 Wesselman Rd.  
Applicant/Owner: Rusty Wayne
  - B. Case No.: BZA2016-02 – Conditional Use for Recreational Facility –  
Article/Section 7.2.3  
Location: 8650 Cheviot Rd.  
Applicant/Owner: Rick Blankenship
8. Resolutions for Adoption: None.
9. Unfinished Business: None.
10. Approval of Minutes: January 27, 2016 meeting.
11. Next Meeting: April 27, 2016 meeting.
12. Administrative Matters: None.
13. Adjournment.

**APPLICATION FOR APPEAL  
COLERAIN TOWNSHIP BOARD OF ZONING APPEALS**

4200 Springdale Rd  
Cincinnati, Ohio 45251  
(513) 385-7505; Fax (513) 245-6503

***An appeal must be filed within 20 calendar days of the action causing the appeal (ORC 519.15)***

Application number: BZA 2014-01

Owner: Harry Hendy Applicant: Rusty Wayne

Property Address: 7968 Wesselman Road

City: Cleves State/Zip: Ohio 45002

Applicant Address: 7968 Wesselman Road

City: Cleves State Zip Ohio 45002

Phone: 513-353-4400

Auditor's Book-Page-Parcel Number: 510 -- 0440 -- 0299 & 0300

Zoning Classification: "RF" Riverfront District

Appeal to (check one): Refusal to issue Zoning Certificate XXXX Citation for Violation \_\_\_\_\_

**Required Documents:**

- ☒ Signed, typewritten *Justification of Variance* statement addressing the items listed on the reverse of this page - **8 copies.**
- ☒ Site Plan (surveyor/engineer's seal may be required) and construction drawings - **8 copies.**
- ☒ Names and addresses of adjacent property owners (use County Auditor's records) - **2 copies.**
- ☒ Plat showing adjacent property owners - **2 copies.**
- ☒ Fees.

Office use only:	Appeal Fee: _____
	Legal Notice: _____
	Mailing/adjacent Property Owners: _____
	Total Amount Paid: _____

***An application for appeal will not be accepted until all of the requirements are met.  
Failure to appear at the scheduled public hearing may result in dismissal of the appeal.***

Signature of Property Owner: \_\_\_\_\_

Signature of Applicant (if not the Owner): \_\_\_\_\_

*Harry Hendy*  
*Rusty Wayne*

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**COLERAIN ZONING**



**Abercrombie  
& Associates, Inc.**

Civil Engineering + Surveying

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COLERAIN ZONING

January 13, 2016

Colerain Township  
Planning & Zoning Department  
4200 Springdale Road  
Cincinnati, Ohio 45251-1419

Attn: Jenna LeCount  
Director of Building, Planning & Zoning

Ref: Hendy, Inc.  
7968 Wesselman Road, Colerain Township, Hamilton County, Ohio  
Our Job No.: 88-0785

Dear Jenna,

Please find attached an application to apply to the Colerain Township Board of Zoning Appeals in reference to your refusal to issue a zoning certificate dated January 13, 2016.

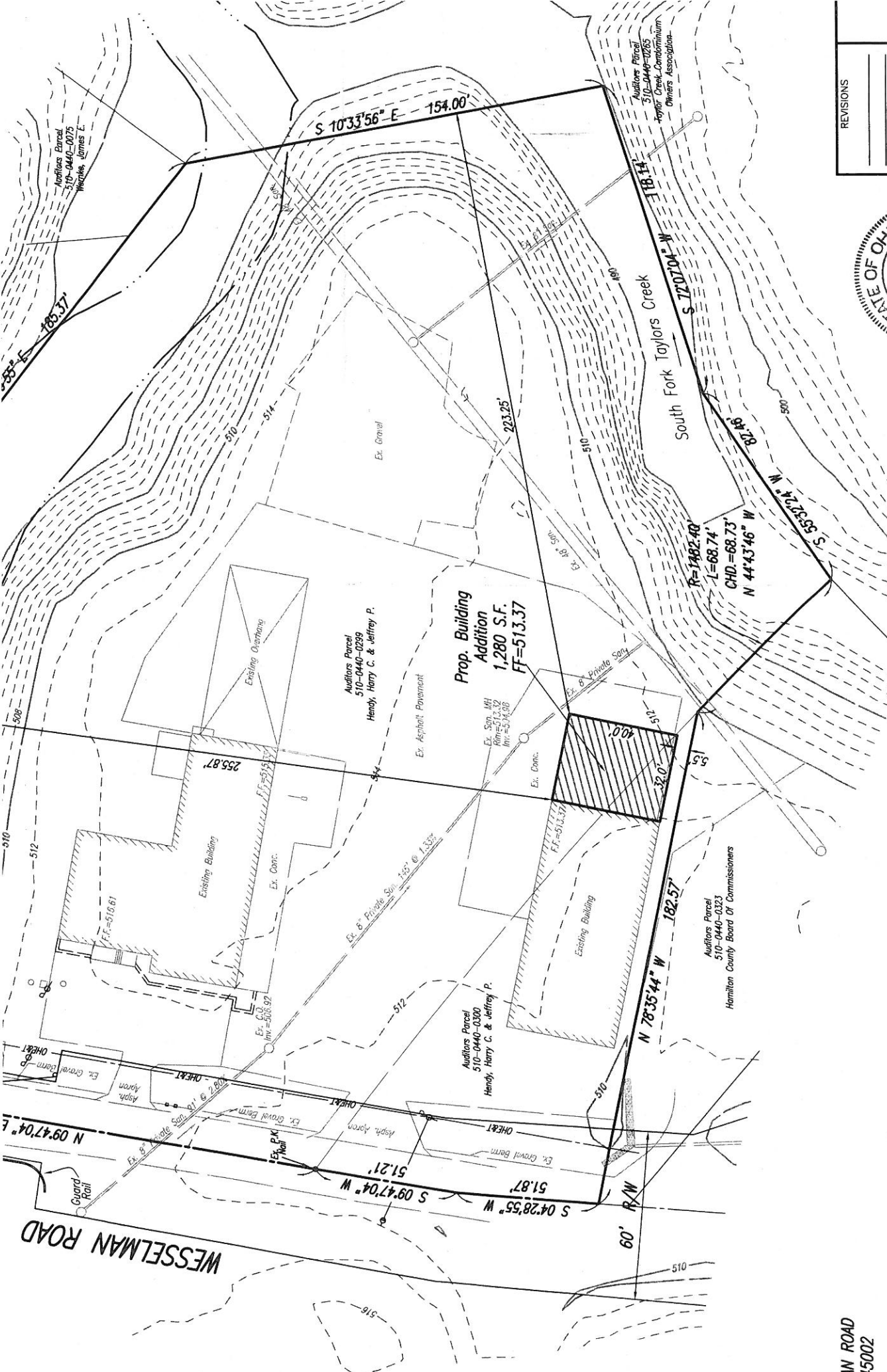
Hendy Inc. is owned and operated by Mr. Harry Hendy who purchased the property in 1986. The building was likely constructed in the 1960's.

For this operation he was issued a building permit in 1995 for the separate vehicle storage building. This building was permitted by Colerain Township Zoning and Hamilton County Building Department. Also approving the plans was the Hamilton County Department of Public Works who is responsible for the FEMA Flood Plain Management in this area.

Mr. Henry has applied for an addition to the vehicle storage building to store and maintain equipment which is necessary for the continued expansion of his business. He has been denied for three reasons 1) Section 9.2 designates the property is located in the "RF" Riverfront District. 2) Section 9.2.2 states that the property is located in a Special Flood Hazard Area as defined by the 2004 Flood Insurance Map and 3) No building shall be constructed in the "RF" Zoning District.

Our appeal is to apply for a hardship as the denial of this zoning certificate would keep a very successful business from expanding their existing operation. This business is located in the "RF" Riverfront District and is a good example of the way flood plain property can be utilized and not affect the flood waters.

The Colerain Township Zoning Code as it exists does not allow for any type of construction of buildings, even if they do not affect the flood waters. Other zoning municipalities allow buildings such as storage buildings, recreation structures and buildings that are not susceptible to internal damage due to flooding. The Hamilton County Department of Public Works is the FEMA Manager of the Flood Plain in

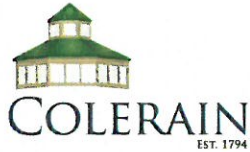


REVISIONS

W ROAD  
15002

<b>COMPANY</b> <b>HENDY, INC.</b> <b>7968 WESSELMAN ROAD</b> <b>CLEVELAND, OHIO 44102</b>		<b>DATE</b> <b>01-12-16</b>	
<b>CONTRACT NO.</b> <b>680-01</b>		<b>DATE</b> <b>01-12-16</b>	
<b>PROJECT NO.</b> <b>680-01</b>		<b>SCALE</b> <b>SHOWN</b>	
<b>PROJECT NAME</b> <b>6770 Kepler Road</b> <b>Cleveland, Ohio 44102</b>		<b>PROJECT NO.</b> <b>680-01</b>	
<b>PROJECT ADDRESS</b> <b>6770 Kepler Road</b> <b>Cleveland, Ohio 44102</b>		<b>PROJECT NO.</b> <b>680-01</b>	
<b>PROJECT PHONE</b> <b>(513) 353-9000</b>		<b>PROJECT NO.</b> <b>680-01</b>	
<b>PROJECT FAX</b> <b>(513) 353-9000</b>		<b>PROJECT NO.</b> <b>680-01</b>	
<b>PROJECT E-MAIL</b> <b>henny@hennyinc.com</b>		<b>PROJECT NO.</b> <b>680-01</b>	
<b>PROJECT WEBSITE</b> <b>www.hennyinc.com</b>		<b>PROJECT NO.</b> <b>680-01</b>	
<b>PROJECT DESCRIPTION</b> <b>6770 Kepler Road</b> <b>Cleveland, Ohio 44102</b>		<b>PROJECT NO.</b> <b>680-01</b>	
<b>PROJECT NOTES</b> <b>6770 Kepler Road</b> <b>Cleveland, Ohio 44102</b>		<b>PROJECT NO.</b> <b>680-01</b>	
<b>PROJECT COMMENTS</b> <b>6770 Kepler Road</b> <b>Cleveland, Ohio 44102</b>		<b>PROJECT NO.</b> <b>680-01</b>	





4200 Springdale Road  
Colerain Township, OH 45251

Staff Report:	Board of Zoning Appeals
Case#	BZA2016-01
Variance Request:	Non-Conforming Use Expansion – Side Yard Setback Variance
Location:	7968 Wesselman Rd.
Meeting Date:	February 24, 2016
Prepared by:	Marty Kohler Senior Planner

Rusty Wayne representing property owners Harry C. and Jeffrey P. Hendy of 7968 Wesselman Rd., Cleves, OH has applied for a variance from Sections 9.2, 9.2.2, 9.2.4 and 5.1 of the Zoning Resolution in order to construct a new addition to an existing non-conforming building associated with a non-conforming pavement contracting business in the “RF” Riverfront District where such use and building is not permitted.

### **Case History:**

The applicant has two existing buildings on the property. One building constructed in 1940 contains 4,576 square feet with an office and workshop space. The second building contains a 3,320 square foot workshop space and was constructed in 1996. The building constructed in 1996 is non-conforming with respect to the minimum side yard setback requirement of 15 feet. Both buildings are in the 100 year flood fringe zone for Taylor creek which borders the site to the north, east and south.

The property is completely surrounded by “RF” Riverfront District. To the north of the property is Taylor Creek and a non-conforming vehicle repair garage and warehousing. To the east is Taylor Creek and residential condominiums. To the south is a MSD sewage lift station, the South Fork of Taylor Creek and I-275. Across Wesselman Rd. to the west is a day care center constructed in 2005 and an older single family house.

Section 9.2.1 of the Zoning Resolution states the purpose of the Riverfront District as follows: “The purpose of the RF Riverfront District is to identify special flood hazard areas and ground water resources and to provide for additional uses or special prohibitions based on the existence of these flood hazards and groundwater resources, including but not limited to the Great Miami Aquifer which is a sole source aquifer in Colerain Township.”

### **Current Proposal**

The proposal is to construct an addition to the existing 1996 workshop building towards the south of the site. The addition is proposed to extend the existing 40 foot wide building by 32 feet to the east. Since the existing building is 5.5 feet from the south property line the new addition would also be 5.5 feet from the property line where the minimum setback is 15 feet. The height of the proposed building is 24 feet to the roof peak with 16 feet tall side walls in keeping with the design of the existing building.

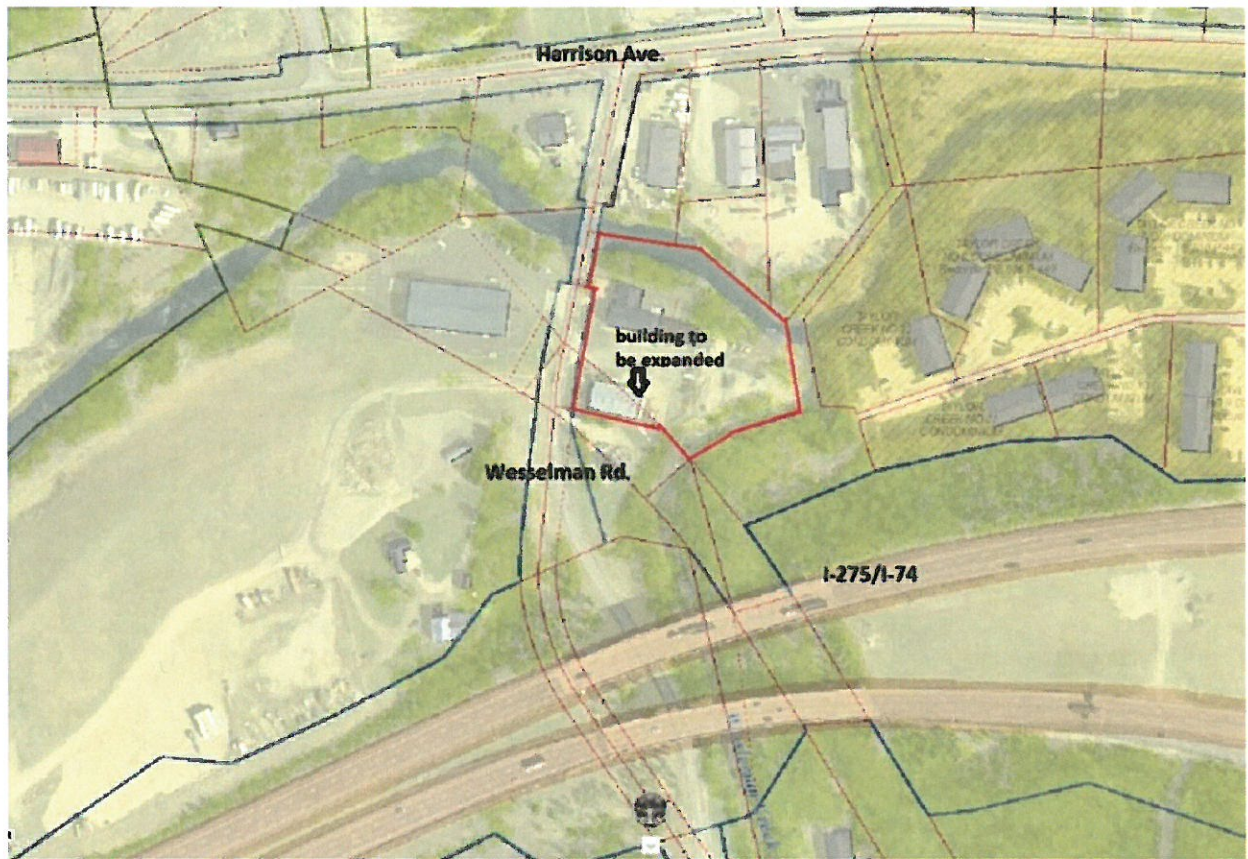
Section 11.8.2 of the Zoning Resolution restricts the expansion of non-conforming uses to 50% of the existing floor area of all buildings on the site. The existing buildings contain about 7,900 square feet and the proposed addition is 1,280 square feet resulting in a 16% expansion.

The proposed use of the addition would be for additional workshop space which is not permitted in the "RF" zone. There is no non-conforming permit for this property. The current proposal is both an expansion of a non-conforming use and a side yard setback variance request.

**Staff Findings:**

1. The non-conforming use expansion requested is substantial since the zoning resolution strongly discourages the construction of buildings in the flood zone of the Great Miami River and Taylor Creek.
2. The granting of the building expansion would not reduce the land area already used for recreational purposes in the "RF" Riverfront District zone.
3. The property in question would likely yield a reasonable return without the variance.
4. The addition is towards the rear of the property and primarily impacts the uninhabited sewer lift station to the south. The minor size of the addition would not be intrusive on the neighborhood.
5. Approval of the expansion would not affect the delivery of government services.
6. The approval of the dimensional side yard variance is not likely to have a negative impact on the Hamilton County sewer lift station on the adjacent property.
7. By taking into consideration the benefit to the applicant if the variance is granted, as weighed against the potential detriment to the health, safety and welfare of the neighborhood and broader community, staff finds that substantial justice would be done by granting the variances.

**Staff Recommendation:** APPROVAL OF THE EXPANSION OF THE NON-CONFORMING USE AND SIDE YARD SETBACK AS REQUESTED





APPLICATION FOR CONDITIONAL USE  
COLERAIN TOWNSHIP BOARD OF ZONING APPEALS

4200 Springdale Rd  
Cincinnati, Ohio 45251  
(513) 385-7505; Fax (513) 245-6503

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2014-02

Application Number: COLERAIN ZONING

Owner: FRIENDSHIP BAPTIST Applicant: RICK BLANKENSHIP

Property Address: 8650/8666 CHEVIOT RD

City: CINCINNATI State/Zip: OHIO, 45251

Applicant Address: 8580 CHEVIOT RD

City: CINCINNATI State Zip: OHIO, 45251

Phone: 513-617-2477

Auditor's Book-Page-Parcel Number: 510 -- 0092 -- 0016  
0092 -- 0015  
0092 -- 0125

Zoning Classification: RESIDENTIAL Use Requested: CONDITIONAL - RECREATION

Required Documents (8 copies of each document unless noted):

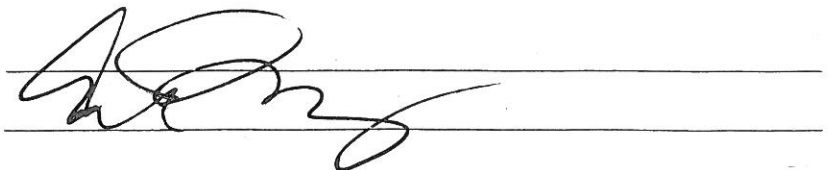
- ☒ Signed, typewritten *Justification of Conditional Use* statement addressing the items listed on the reverse of this page.
- ☐ If any variance to yard, building size, or parking is desired, include a signed, typewritten *Justification of Variance* statement addressing the items listed on the reverse of this page.
- ☒ Site Plan (surveyor/engineer's seal may be required).
- ☒ Landscape Plan.
- ☒ Lighting Plans.
- ☒ Names and addresses of adjacent Property Owners (use County Auditor's records) – 2 copies.
- ☒ Plat showing adjacent Property Owners – 2 copies.
- ☒ Fees.

Office use only:	Appeal Fee:	_____
	Legal Notice:	_____
	Mailing/adjacent Property Owners:	_____
	Total Amount Paid:	_____

**An application for conditional use will not be accepted until and unless all of the above requirements are met.  
Failure to appear at the scheduled public hearing may result in dismissal of the application.**

Signature of Property Owner:

Signature of Applicant (if not the Owner):



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Justification of Conditional use Statement:

COLERAIN ZONING

1. Affirm Use:

Looking at the tables, 7-1, we would like to submit for Conditional Use, using the property as recreational use.

2. Use:

Property to be used for a sand volleyball court and basketball court (future).

Required employees would only be an occasional grounds keeper to maintain the courts.

Hours of operation: 10AM -10 PM +/-

Expected traffic: 25-45 people normally, it could vary.

Typical activity: Volleyball, Basketball, Youth activities

3. Changes:

Install: 2- 50' x 80' Sand volleyball courts and 2- 50' x50' concrete pads.

Install doors on the backside of the garage to contain equipment.

Containment netting (if needed) to be installed, to keep volleyballs on the property.

Install lighting on the courts facing east (away from neighbors).

Parking exist, if additional parking needed they could park at the Church (8580 Cheviot).

4. Efforts:

Our intention is to respect the neighbors and their property.

Any concerns we will work with them to maintain a good neighbor relationship.

5. Excessive requirements:

Installation of this court will not create any additional requirements for the public to maintain.

Additionally we will allow public usage (with prior scheduling knowledge) to those who request from the Church.

  
Rick Blankenship

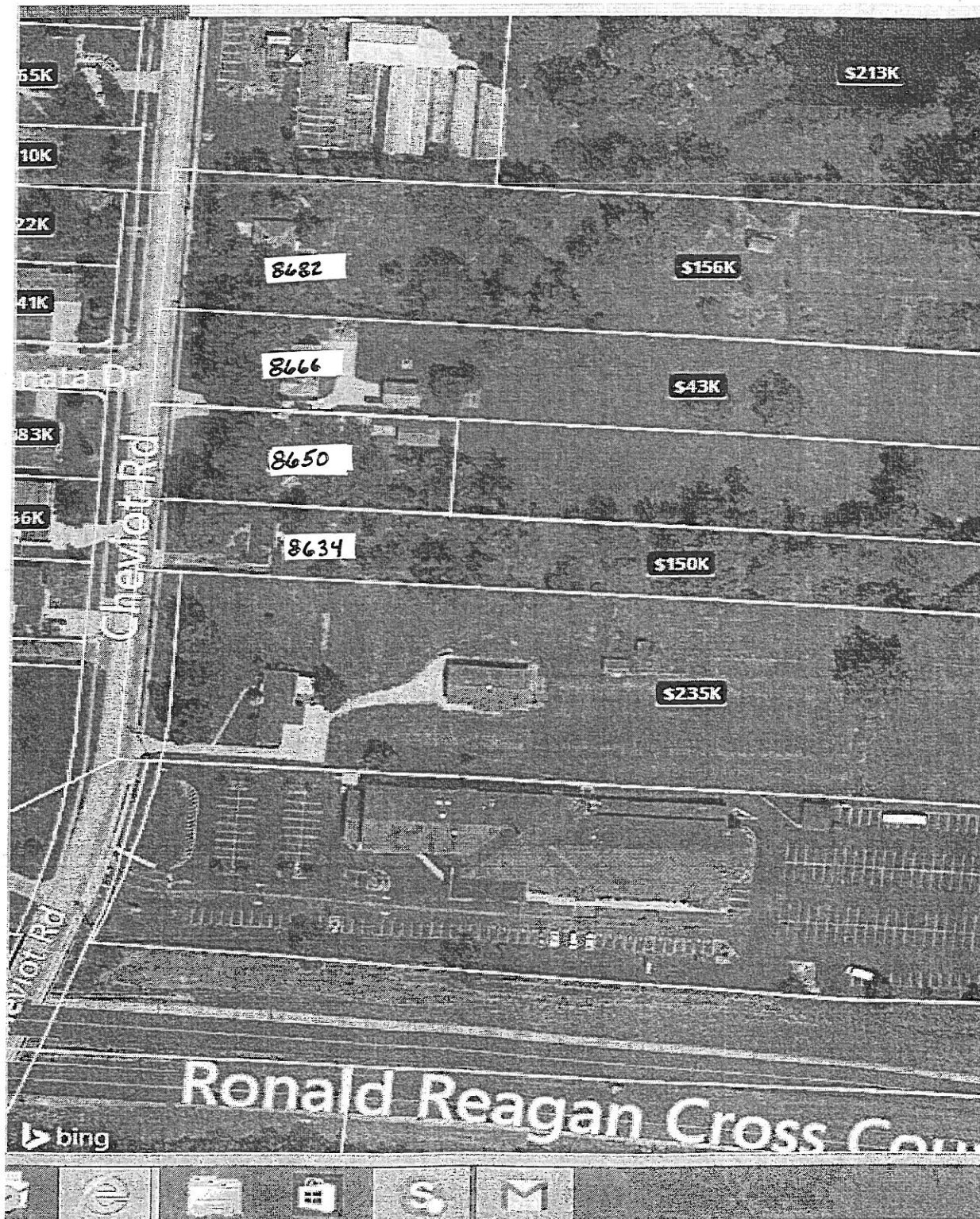
1/13/2016

# PLAT PLAN

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COLERAIN ZONING

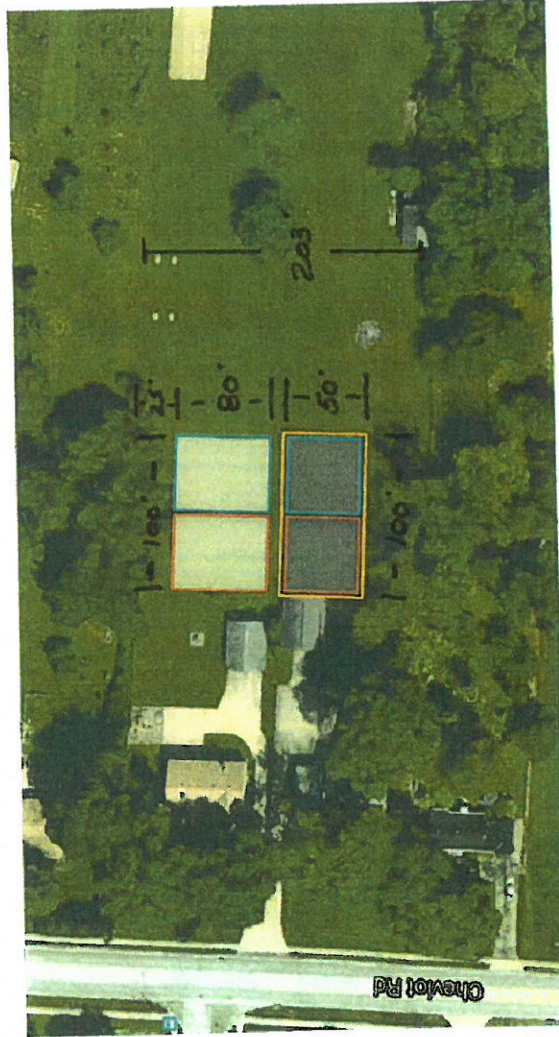


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COLERAIN ZC

Patio Shelter and Sand Volleyball Court Development Plan



SITE PLAN



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JAN 13 2016

COLERAIN ZONING

Patio Shelter and Sand Volleyball Court Development Plan



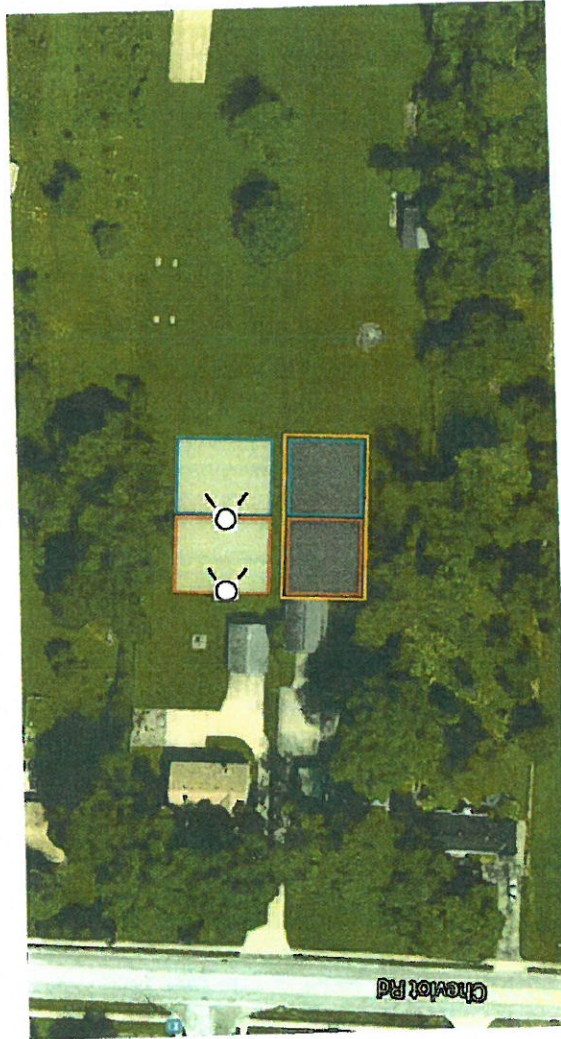
LANDSCAPE PLAN  
- ONLY GRADING TO INSTALL COURTS

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COLERAIN ZONING

Patio Shelter and Sand Volleyball Court Development Plan



LIGHTING PLAN





4200 Springdale Road  
Colerain Township, OH 45251

Staff Report:	Board of Zoning Appeals
Case#	BZA2016-02
Variance Request:	Conditional Use – Private Recreation
Location:	8650-8666 Cheviot Rd.
Meeting Date:	February 24, 2016
Prepared by:	Marty Kohler Senior Planner

Rick Blankenship representing property owner Friendship Missionary Baptist Church has applied for a Conditional Use Permit to use property containing two single family homes for private recreational purposes in accordance with section 7.2.5 of the Zoning Resolution. The property is zoned R-5 (Suburban-High Residential District) where private recreational uses are conditionally permitted.

### **Case History:**

The applicant has a church facility located at 3580 Cheviot Rd. which was constructed in 1950 and greatly enlarged in 1988 for a total floor area of about 36,500 square feet. Churches are also a Conditional Use in the R-5 zone. The church is located about 275 feet to the south of the subject property and is separated by two single family homes. The church facility borders Ronald Reagan Highway to the south and the lot is almost entirely covered with the church and parking with very little green space.

The subject property consists of three tracts containing two single family homes and detached garages. Both houses were constructed in 1955 and the land for both houses measures 199 feet wide by 993 feet deep. (4.5 acres) The properties were purchased by the Church in 2008 and the Church has been using them for missionary housing and youth social events. Cheviot Rd. has public sidewalk on both sides providing a pedestrian connection between the church and houses. According to the maps on the Hamilton County Health Department web page, both houses are connected to a central sewer system.

### **Current Proposal**

The proposal is to construct an outdoor sand volleyball court and full basketball court in the rear yards of the homes. The courts are proposed to be lighted with fixtures facing the rear of the property. Further details on the use and modifications to the property are outlined in the application. The use of the houses would remain the same. Parking would primarily be in the current house driveways with overflow parking at the Church. The sand volleyball court would be 25 feet from the northern property line and basketball court would be 40 feet from the southern property line. The expected hours for use of the recreation facilities would be from 10am to 10pm according to the application.

In conversations with the applicant it was discussed that the restrooms in one of the current houses would be available during events with the intent of a future conversion of

a basement garage into restrooms with access directly outside. The applicant also noted that they want to eventually build a picnic shelter but they do not have enough information regarding the size and height of the structure to be included in the current application.

The property is located in the White Oak Character Area as defined in the Colerain Comprehensive Plan. The vision for this area is for low intensity commercial with a mixture of housing types. There is a development policy calling for buffering between residential and non-residential uses.

### **Zoning Regulations**

While churches, public recreation and private recreation are all classified as Conditional Uses in the R-5 zone, only churches and public recreation facilities have performance standards for development. There are no specific setback or use criteria for private recreation in the Zoning Resolution.

If this were considered to be a church use, all facilities would be required to have a 50 foot setback from adjacent residential property and include a buffer strip of evergreen plantings or privacy fences. If this were a public park facility the only restriction would be that structures would be subject to a 100 foot setback from adjacent residential property.

The Zoning Resolution states the purpose of the R-5 zone as "The R-5 Suburban – High District is intended to provide for the protection of older, existing neighborhoods in Colerain Township where development is more compact. The primary use in the R-5 District is single-family detached homes at higher densities on lots served by water and sewer services." The minimum lot size for a single family house in the R-5 zone is 10,500 square feet with sewer making these each of these lots about nine times the minimum size.

### **Staff Findings:**

1. The use is a conditional use, permitted with approval by the Board of Zoning Appeals, in the district where the subject lot is located;
2. The use is in accordance with the objectives of the Colerain Township Comprehensive Plan and Zoning Resolution;
3. The conditional use will not substantially and/or permanently injure the appropriate use of neighboring properties if approved with reasonable restrictions to mitigate the more intensive use of the property including noise, outdoor lighting and parking, otherwise the use will serve the public convenience and welfare;
4. The use will not create excessive requirements, at public cost, for public facilities and services and will not be detrimental to the economic welfare of the community.

**Staff Recommendation:** APPROVAL SUBJECT TO THE FOLLOWING CONDITIONS:



1. That outdoor recreation activities be restricted to between 10:00 am to 9:00 pm. (one hour earlier than requested)
2. That a six foot high privacy fence be constructed at the north and south property lines even with the back of the houses to the rear of the recreation courts.
3. That all parking of vehicles be restricted to the existing paved area.
4. That a lighting plan meeting the requirements of section 19.2 be submitted for staff review if the outdoor courts are to be lighted.
5. That any future additional outdoor recreational facilities be submitted to the BZA as a modification of the Conditional Use Permit.

