

VILLAGE OF YELLOW SPRINGS  
BOARD OF ZONING APPEALS  
AGENDA

The Village of Yellow Springs Board of Zoning Appeals will convene on Wednesday,  
May 11, 2016 at 7:00 PM in Council Chambers, Second Floor, John Bryan Community  
Center, 100 Dayton Street, Yellow Springs, Ohio 45387

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7:00 CALL TO ORDER

ROLL CALL

REVIEW OF AGENDA

COMMUNICATIONS

7:05 REVIEW OF MINUTES  
Minutes for BZA Meeting of December 2, 2015

7:10 PUBLIC HEARINGS

- 1) Application from Select Signs for a variance seeking relief from the permitted signs requirement at 888 Dayton Street, a PUD Zoning District and Gateway Overlay District. The property includes the following parcels, owned by Dayton Mailing Services: F19000100030001500; F19000100030001400; F19000100030001200 Yellow Springs Village and F16000100060002800; F16000100060003100 Miami Twp.

8:45 AGENDA PLANNING

9:00 ADJOURNMENT

**VILLAGE OF YELLOW SPRINGS  
BOARD OF ZONING APPEALS  
MINUTES**

**IN COUNCIL CHAMBERS @ 7:00 P.M.**

**Wednesday, December 2, 2015**

**CALL TO ORDER**

The meeting was called to order at 7:00 p.m. by Ted Donnell, Chair.

**ROLL CALL**

Ted Donnell, Chair, Steve Conn and Dan Reyes were present, as was the Zoning Administrator for the Village, Denise Swinger.

**REVIEW OF AGENDA**

There were no changes made to the agenda.

**REVIEW OF MINUTES**

Minutes for BZA Meeting of June 10, 2015. Jacobs MOVED and Perry SECONDED a MOTION TO APPROVE THE MINUTES AS WRITTEN. The MOTION PASSED 3-0 on a voice vote.

Minutes for BZA Meeting of October 28, 2014. Conn MOVED and Reyes SECONDED a MOTION TO APPROVE THE MINUTES AS WRITTEN. The MOTION PASSED 3-0 on a voice vote.

**PUBLIC HEARINGS**

Perry recused himself for reasons of potential conflict of interest.

Swinger reviewed the application as follows:

**733 Union Street.** An application for a variance seeking relief from the required side yard setback of ten (10) feet (1248.03a) for an upper deck and stairway extending to within two (2) feet of the side yard property line at 733 Union Street, Greene County Parcel ID#F19000100020006000 was received from the property owner, Tom Gray. The property is located in the R-A Low Density Residential Zoning District.

**Background:**

Staff became aware of a deck being constructed near a property line at 733 Union Street. The owner, Tom Gray, was contacted and asked to stop construction pending the permitting process. Mr. Gray promptly submitted his documentation with the Village of Yellow Springs and Greene County, but had to cancel participation in the Village of Yellow Springs October BZA meeting due to a prior commitment.

The deck (see attachment A) is an 8ø x 12ø structure which adds 96ø square feet to the principal existing footprint. With this measurement included, the total square footage of all structures on the property does not exceed the lot coverage in R-A Low Density Residential of 35 percent of the total lot size. The lot size is 14,518 square feet with 35 percent allowable lot coverage. This equates to a maximum of all structures allowed equaling no more than 5,081 square feet. The existing structures and the deck = 2,095 square feet, well below the maximum.

The side yard requirement for R-A Low Density Residential is a minimum of 10ø and a total minimum of 25ø. His deck comes within 2ø of the property line and Mr. Gray is requesting a variance of 8ø in order to complete his upper deck which will serve as a landing area to a door he will install allowing him to access the upstairs of his garage for storage. This deck will not be enclosed and used for storage itself. Provisions of the zoning code, including by way of example, lot size, width, setbacks, parking requirements and height, shall be in harmony with the intent and purposes of the code, as provided below.

Swinger commented that all abutting and adjacent property owners have been notified. Pending no objections, staff recommends the Board of Zoning Appeals **APPROVE** a variance for relief from the side yard requirement of 10 feet. Because of the angle of the property line, the back of the existing garage/shop is already located very close to the property line.

Donnell OPENED THE PUBLIC HEARING.

Tom Grey explained that the property has been in his family for two generations, and that while the upper floor of the garage has been regularly but sporadically used as a residence, there has never been a separate access to that space; it has been shared with the home.

Donnell CLOSED THE PUBLIC HEARING.

Jacobs asked whether there was any history of issues with the adjoining property owner.

Grey stated that there have been no issues in 40 years. He stated that long ago, when the adjoining property owner constructed their home, there was tension, but that this has dissipated over the intervening years.

Swinger noted that there were no responses back from neighbors.

Conn asked whether there was any other way to create a second means of egress.

Grey outlined the limitations of the lot, stating that this is the only existing solution.

Reyes commented that the addition appears to be a second residence, rather than simply storage. He stated that if the space is improved to the point of being a viable residence might the reaction from neighbors be different.

Grey stated that he has no plans in that direction at present.

Donnell noted that it is the code that created a non-conformity, such that the Board would not be increasing a non-conformity in granting the variance. Per section 1282.04 (a)(1): No nonconforming building or structure may be enlarged or altered in a way that increases its nonconformity. The addition would follow the existing non-conformity along the same plane, and would thus not add to the non-conformity.

Reyes commented that he would be happier with the application if it were posited as a potential residence so that all possibilities are covered.

Conn commented that this is unfairly anticipating hypotheticals.

Donnell stated that the Board could make the classification of the structure as an accessory dwelling unit.

Grey commented that it has been used as such off and on over a period of many years.

Jacobs asked whether the matter would need to come back to the Board if the use were to change and become an accessory structure.

Swinger stated that the garage is within 10 feet of the home and as such the accessory structure can be considered as part of the home. She commented that the use has been grandfathered in.

Donnell stated that in that case it is more accurate to categorize the use as an accessory structure.

Jacobs noted that the notice requirement is very vague. He stated that the notice has to identify a potential use, not every possible use.

Donnell called for a motion.

Jacobs MOVED to GRANT THE VARIANCE REQUEST AS SUBMITTED. Conn  
SECONDED.

Donnell read the variance standards and called the votes as follows:

- (1) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance; Reyes: Y, Conn: Y, Donnell: Y, Jacobs: Y.
- (2) Whether the variance is substantial; Reyes: N, Conn: N, Donnell: N, Jacobs: N.
- (3) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance. Reyes: N, Conn: N, Donnell: N, Jacobs: N.
- (4) Whether the variance would adversely affect the delivery of governmental services such as water distribution, sanitary sewer collection, electric distribution, storm water collection, or refuse collection. Reyes: N, Conn: N, Donnell: N, Jacobs: N.
- (5) Whether the property owner purchased the property with knowledge of the zoning restriction. Reyes: Y, Conn: N, Donnell: N, Jacobs: Y.
- (6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance. Reyes: Y, Conn: N, Donnell: N, Jacobs: N.
- (7) Whether the existing conditions from which a variance is being sought were self-created. Reyes: Y, Conn: N, Donnell: N, Jacobs: N.



(8) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. Reyes: Abstain, Conn: Y, Donnell: Y, Jacobs: Y.

(b) The Board shall determine, after weighing the factors described above and any other factors the Board deems relevant, whether the property owner has shown practical difficulties so inequitable as to justify granting a variance to the property owner.

Donnell CALLED THE VOTE, and the MOTION PASSED 3-0, with Reyes Abstaining.

Perry rejoined the meeting.

#### **AGENDA PLANNING**

There was no Agenda Planning.

#### **ADJOURNMENT**

There being no further business, Jacobs MOVED and Conn SECONDED a MOTION to adjourn. The MOTION PASSED 4-0. Meeting ADJOURNED at 7:31pm.

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Ted Donnell, Chair

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Attest: Judy Kintner, Clerk



## Board of Zoning Appeals

Staff Report: Denise Swinger, Zoning Administrator  
May 4, 2016

LOCATION: 888 Dayton Street

ZONING DISTRICT: PUD & Gateway Overlay District

APPLICANT: Select Signs Company

PROPERTY OWNER: Dayton Mailing Services, Inc.

REQUESTED ACTION: Request for a variance to the number of signs allowed on the property.

GREENE CO. PARCEL ID: #F19000100030001200, F19000100030001400, F19000100030001500.

### PROPERTY INFORMATION:

The property is located at the NE corner of Dayton Street and East Enon Road. It consists of three parcels inside the Village and contains a total of 9.892 acres. In addition, there are two adjacent parcels owned by DMS, Inc. located to the north of the site in Miami Township. The site is currently occupied with a large structure made up of three attached buildings and a large parking lot which is accessed from East Enon Road. Two additional access points exist from Dayton Street; one for truck access to existing loading docks on the east side of the structure and one that provides access to a medical clinic and emergency access to the building. The structure is currently occupied by seven separate businesses; DMS Ink and its division Barrett Brothers Legal Publishing; the Bricks Agency; e-Health Data Solutions; Brick Forge; Community Physicians of Yellow Springs (a rural health clinic) and Yellow Springs Primary Care.

### STAFF ANALYSIS:

The property is zoned PUD. Section 1254.03 of the PUD Requirements states “any use permitted by right or conditional approval in any zoning district may be permitted within a PUD” and “In the case of a mix of uses, the zoning requirements applicable to each use category shall apply to that use.” This property is also in a Gateway Overlay District, but there are no additional allowances or restrictions for signs beyond the requirements of Chapter 1266.

In 1266.05 Permitted Signs - it states “In any B or I district, a maximum of two types of signs and three total signs per principal building shall be permitted on any lot, regardless of the number of tenants.” However, the code doesn’t clearly differentiate between “permitted” signs and “signs exempt from a permit” when it comes to the total number of signs allowed per principal building on any lot. The

Planning Commission is finalizing revisions to the zoning code and intends to add the word “permitted” so it will read “types of permitted signs” and “total permitted signs” to clarify this.

In the “Signs Exempt from a Permit” section of the zoning code some of the signs have certain requirements regarding the number allowed, but others do not. For example, there is no limit to the number of directional signs, but only two incidental signs per business are allowed.

As mentioned above, the Planning Commission is finalizing the sign code at their meeting on May 9<sup>th</sup> and I should be able to update you at the BZA hearing. They intend to increase the number of sign types to three and the total number per principal building to four in any B or I district, as well as making it clear this limitation is for “permitted” signs only, thus leaving the number of allowed “signs exempt from a permit” as it currently reads.

At present, the 888 Dayton Street property has several types of signs. They include:

SIGNS EXEMPT FROM A PERMIT:

Directional - visitor parking and exit and enter signs - (8)

Municipal – several handicapped parking signs and a seatbelt sign – (5)

Incidental – security alarm notification (1)

Nameplate – for the Rural Health Clinic; DMS; eHealth Data; Brick Forge and Yellow Springs Primary Care  
– all are located on glass walls or doors at various entrances – (5)

Address – on the window above the main entrance – (1)

PERMITTED SIGNS:

Temporary – signs for the two doctor’s offices - (3)

Wall – the Community Physicians of Yellow Springs sign above the entrance to their business is outside the dimensions of a nameplate sign and should be classified as a wall sign – (1)

Ground – the signs are in three locations (a permit was granted for the non-conforming and internally lit sign in 2012 prior to the new zoning code, and the other two were permitted after) – (3)

## VARIANCE CRITERIA

### 1278.04 Variances

The Board's power to grant variances from the dimensional provisions of the zoning code, including by way of example, lot size, width, setbacks, parking requirements and height, shall be in harmony with the intent and purposes of the code, as provided below.

(a) *Variance Standards.* Variances from the terms of the code shall be granted only where the applicant shows that the strict application of a zoning requirement causes practical difficulties in the use of the property. The factors to be considered and weighed by the Board in determining whether a property owner has encountered practical difficulties in the use of the property include, but are not limited to:

- (1) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
- (2) Whether the variance is substantial;
- (3) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;
- (4) Whether the variance would adversely affect the delivery of governmental services such as water distribution, sanitary sewer collection, electric distribution, storm water collection, or refuse collection;
- (5) Whether the property owner purchased the property with knowledge of the zoning restriction;
- (6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance;
- (7) Whether the existing conditions from which a variance is being sought were self-created; and
- (8) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

(b) The Board shall determine, after weighing the factors described above and any other factors the Board deems relevant, whether the property owner has shown practical difficulties so inequitable as to justify granting a variance to the property owner.

### VARIANCE DISCUSSION

Because this is a PUD zoning district, two things should be considered in the permitting of signs, 1) It is a mix of uses so the zoning requirements “applicable to each use category shall apply to that use” and in the case of multi-tenant buildings, “the sign area for wall, projecting, canopy or awning signs shall be determined by taking that portion of the front wall of the building applicable to each tenant and computing the sign requirements for that portion of the total wall.”

Based on the uses within this structure, all of these businesses fall within two zoning designations; B-2 General Business District and I-1 Light Industrial District. In these districts, the following permitted signs are allowed:

Ground signs – one per street frontage – 32 square feet – six feet maximum

Wall signs – five percent of wall area to which it is attached, not exceeding 64-square feet

Business center sign – one per property. No other freestanding sign shall be permitted on the property for individual businesses. Size is 48 square feet maximum and height is six feet maximum.

Select Signs is requesting 4 signs which they have labeled A through D (see Select Signs BZA application and the sign sketches). All four are ground signs of which two signs modify or replace existing signs and two are new.



Select Signs intends to move the above sign and not replace it.



Select Signs intends to modify this sign (see sketch D).



Select Signs has already modified this (see A), a non-conforming sign.

The non-conforming ground sign pictured on page 5 was already modified by Select Signs for DMS. Because this sign was originally approved in 2012 prior to the zoning code update, it is considered non-conforming because it is 1) over six feet tall and, 2) is internally lit. According to section 1266.10 of Nonconforming Signs:

*(a) Any permanent sign or sign structure which was legally established, but no longer conforms to the height, size, area or location requirements of this chapter, is deemed to be nonconforming.*

*(b) Nonconforming signs may not be altered, expanded, enlarged, or extended; however, nonconforming signs may be maintained and repaired so as to continue the useful life of the sign.*

*(c) For the purposes of this chapter, a nonconforming sign may be diminished in size or dimension or the copy of the sign amended or changed without jeopardizing nonconforming status.*

The signs labeled B and C in Select Signs report are ground signs (one at Dayton Street entrance, labeled B and one at East Enon Road entrance, labeled C. Because of the need for a directional sign at the Dayton Street entrance, they modified the sign to be directional sign pending the BZA Hearing.

#### STAFF RECOMMENDATION:

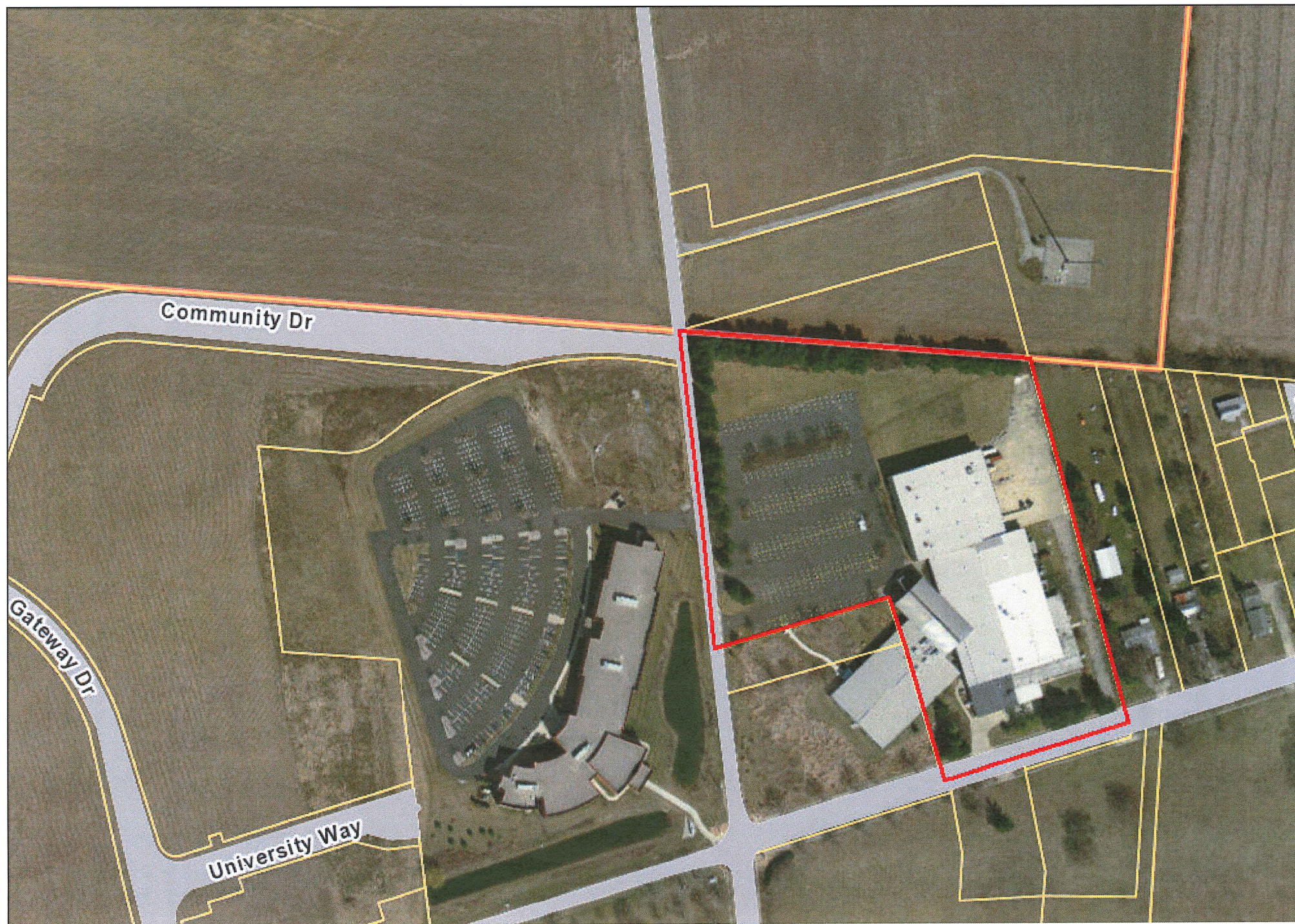
It is important to consider the changes that have recently taken place at this property. DMS, Inc. and its two subsidiaries, coupled with the other four existing businesses, the size of the property with three separate lots, plus the additional two lots in the township, the number of buildings (3) which in past zoning approvals has been viewed as one structure, are all factors in determining this request for a variance from the current sign code. In consideration of the above and the uniqueness of this property, staff recommends that BZA **APPROVE** the variance request for the additional ground signs.

Respectfully submitted,

Denise Swinger  
Planning & Zoning Administrator  
Village of Yellow Springs  
(937) 767-1702



# Greene County, Ohio









## Village of Yellow Springs

100 Dayton Street, 45387

PHONE: (937) 767-1702

FAX: (937) 767-3720

## Board of Zoning Appeals Application

[OFFICE USE]

Case #: 16-001

Zoning District: PUD

TYPE OF REQUEST: (Check one)

☒ VARIANCE

☐ ZONING APPEAL

☐ OTHER (Please Specify): \_\_\_\_\_

1. Property Address and/or Parcel ID: 888 Dayton Street
2. Property Owner: Dayton Mailing Services  
Address: 888 Dayton Street Phone: 937-222-5056
3. Description of request: The request is for additional Square footage. The existing sign that is at the entrance to the Building, in the parking area, has pushed the square foot allotment over what is allowed. The existing 4' x 12' sign cabinet is not a part of the right of way signage and we would like to have that 48 square feet not included in the sign package. The monument style sign at the corner will replace the existing address sign/sculpture. The main and rear entrances to this facility can be confusing and we feel it is necessary to mark these well for our customers and the customers of our additional tenants.

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 Jon Cowell, Select Signs, LLC Title: Owner  
Address: 1508 E. Second Street Dayton OH 45403 Date: 4/13/16  
E-mail: jon@selectsigns.com

**DO NOT WRITE BELOW THIS LINE [OFFICE USE]**

Zoning Classification: PUD

Fee: \$100.00

Hearing Date: May 11, 2016

Request Denied or Approved: \_\_\_\_\_

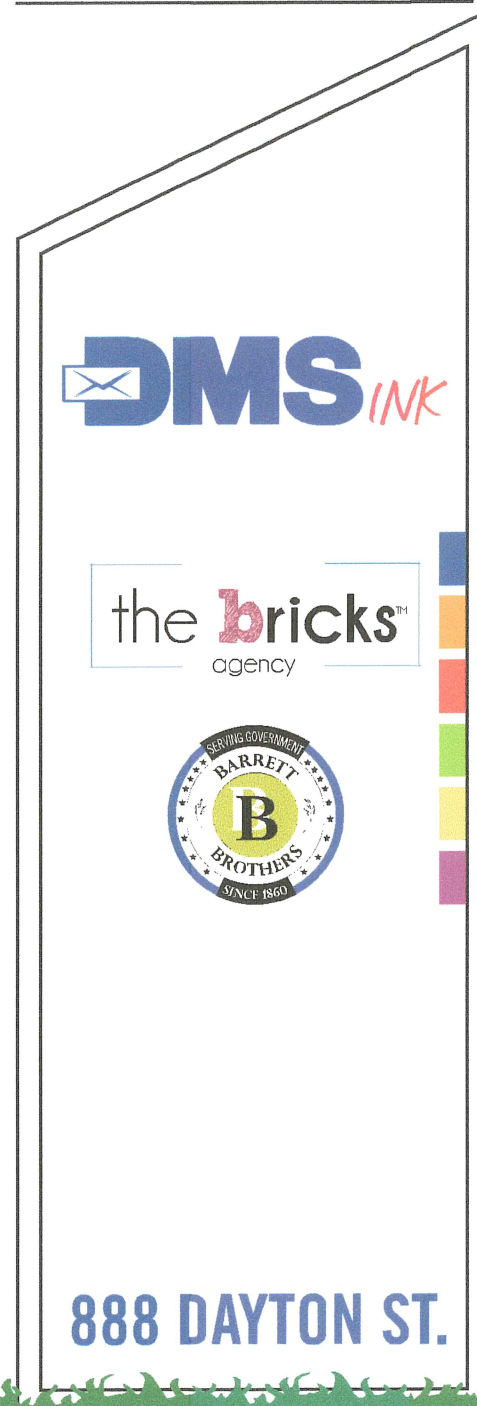
Zoning Official Name & Title: \_\_\_\_\_

48 SF

4' X 12' existing light cabinet

Face Change

48"



144"

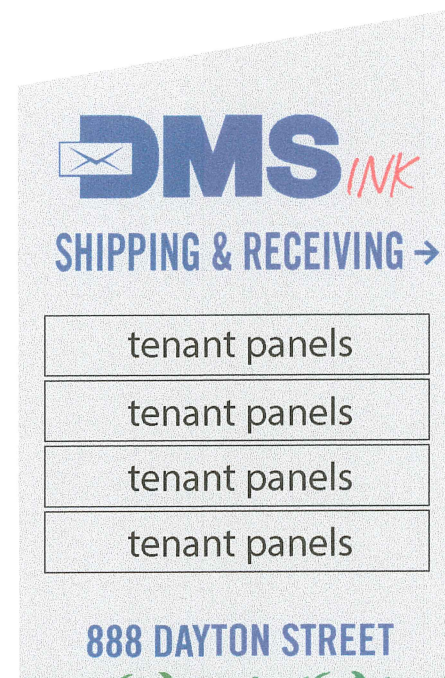
A

**15 SF**

*3' X 5' non-lit directional ground sign  
at Dayton Street Entrance.*

*4" OD, schedule 40 post.  
concrete footer 12"x 32" deep.*

**36"**



**50"**

**32"**

**B**

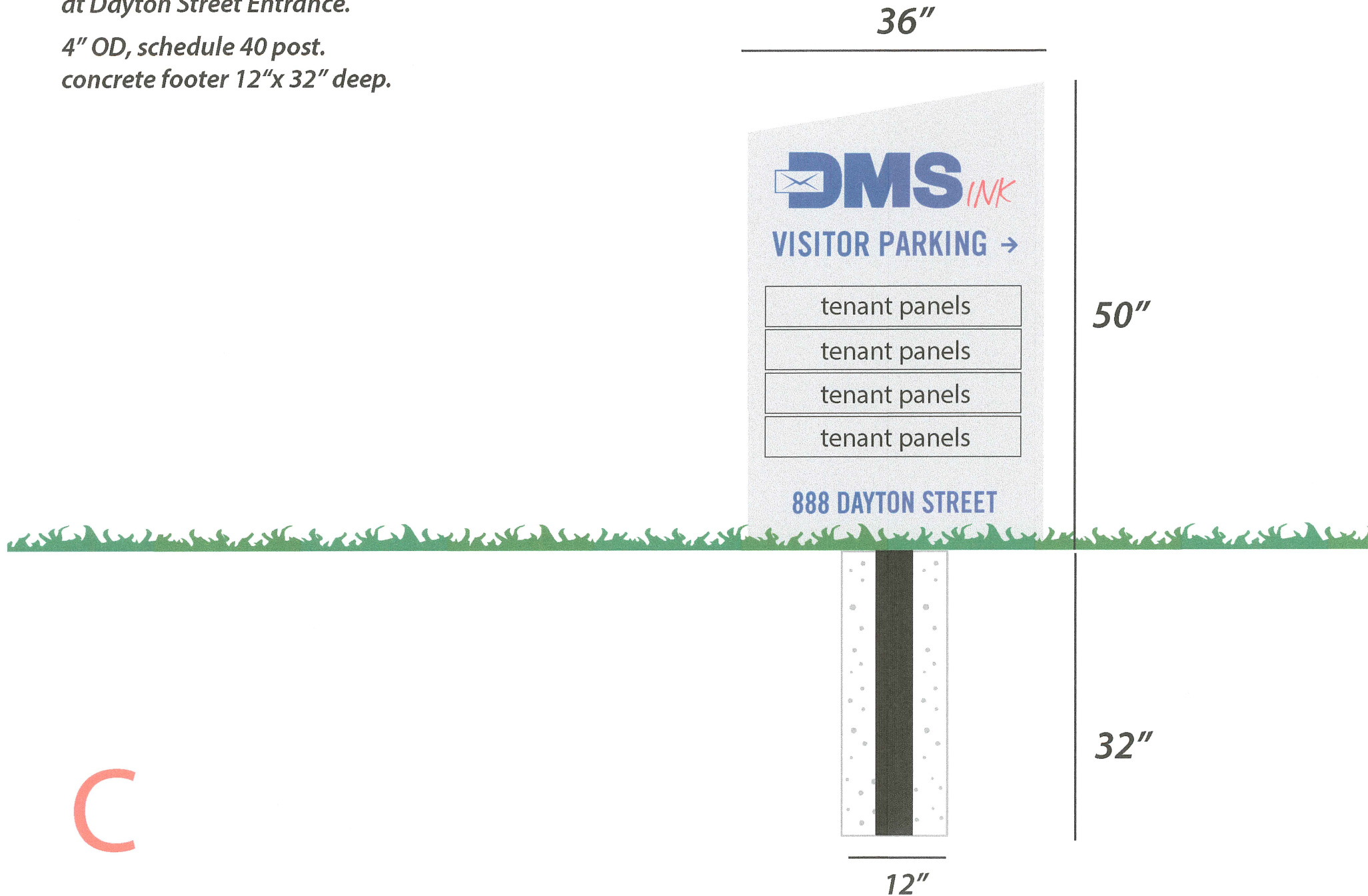
**12"**



**15 SF**

**3' X 5' non-lit directional ground sign  
at Dayton Street Entrance.**

**4" OD, schedule 40 post.  
concrete footer 12"x 32" deep.**



28 SF

96" X 42" non-lit directional ground sign  
at Dayton St & Enon St intersection

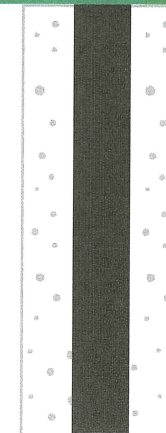
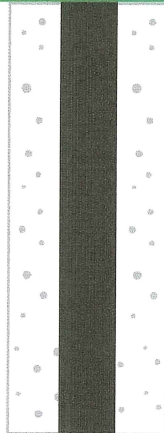
2) 4" OD, schedule 40 post.  
concrete footer 12"x 32" deep.

96"



42"

60"



32"

12"

D



