## Decatur County Board of Zoning Appeals Minutes Decatur County Courthouse 150 Courthouse Square Meeting Room

The regular scheduled meeting of the Decatur County Board of Zoning Appeals was convened at 6:30 p.m. on Wednesday, August 1, 2018, at the Decatur County Courthouse. The meeting was called to order by Paul Stone. All 5 board members were present. Also attending the meeting was Melissa Scholl – BZA Attorney, Krista Duvall – Decatur County Area Plan Director and Debbie Martin – Administrative Assistant.

President Paul Stone called the meeting to order and read the following; to comply with Title VI of the Civil Rights Act of 1964, Decatur County requests that participants in this meeting complete a voluntary, anonymous survey that is available on the table in the back of the room.

The minutes of the July 5, 2018 regularly scheduled BZA monthly meeting were approved as mailed.

\* BZA Petition 2018-13 – David & Dale Gramman is requesting a "Conditional Use" as provided in the Decatur County Zoning Ordinance # 935(2) to turn an existing structure into a rental facility for events. The property is owned by the petitioners and is located at 1806 N CR 80 NE, Greensburg in Washington Township.

David Gramman stated that they wish to turn their barn into a place to have weddings, parties and reunions. For my daughter's wedding last year we added on and decided to turn it into a building that I can use for others.

Paul; this is located at your home? David; yes. Paul; a few things, as far as restrooms what will you do? **David**; we rented a trailer for bathrooms and that is what we will do in the future. Paul; is there a max occupancy determined or is this something that will be determined by a Fire Marshall? Dale Gramman; the Fire Marshall is coming out next week but I had an engineer look and he determined 200 people. **Paul**; so at 200 approx. could you plan on 100 cars, would you have sufficient parking? **David**; I would say that would be right, we had 400-500 for our daughter's wedding and we didn't have any parking problem. The weather could cause problems. Paul; as we look at this overhead map, the ground breaks at the creek at the bottom. David; its flat all at the top where we can park if it ever gets wet over there. Paul; if this goes through one thing is that it's a relatively long narrow drive that wouldn't support vehicles parking along it and still allow emergency vehicles to get through so that is something that you need to keep in mind. **David**; inaubidle. **Roger**; can two cars pass on that driveway easily or can emergency vehicle be able to pass? **Dale**; there is one spot at the top of the hill that would be tough, other than that you can pass everywhere. Roger; access to the road in both directions, you will have a lot of vehicles leaving at one time, how is the visibility in both directions? **David**; I think the visibility is good both directions, there are not blind spots. **Roger**; what about oncoming vehicles as they come towards the driveway, it's not the straightest road. **David**; it's pretty well straight right there, the curves are further down the road. Jay; the culvert at the entrance of your driveway, is that going to be sufficient for fire trucks and emergency vehicles to get in there, I don't know what the weight limit is, have you had that looked at? Will you have

to put rails up on the sides or do you think it will be adequate? **David**; I think it's adequate but I think I would like to put rails on it just so people know where the edge is. Roger; when you think it's adequate, you may have an 80,000 lb. vehicle going across that. **David**; I have an 8,000 lb. that I drive across it. Roger; but you have the confidence of it, they have to make sure that we don't have any incidence whatsoever so it is probably not your judgement. David; right, I realize that. Jay; will time limits be set as to how late the parties will last? Is that determined by the Fire Marshall Krista or is that for them to decide? **Krista**; it's up to the Gramman's. Dale; the Fire Marshall is scheduled to come next week. Paul; the Fire Marshall will take care of things like number of exits and fire suppression. Jay; how does that work Krista, give the board a little bit of background on how this will be handled, we don't see a lot of these types of petitions. Krista: we are discussing land use, we want to make sure that they are safe and it won't affect property values of the neighbors and overall public health and safety taken into consideration. The Fire Marshall, if this is approved, he will determine if it has to be sprinkled, and sprinkling in the county is not feasible so they will have to apply for a Sprinkler Variance. It may be that they have to add another exit door or whichever is determined by the State. Then they will get a design release, the Fire Marshall will determine what needs to be done. An Entertainment Permit will be required. As far as we are concerned as a board is the land use. **Roger**; and back to the land use and you establish a parking lot for 100 potential cars, where was your plan to put the lot? Restroom facilities is something you need to consider as well. **David**; we are going to have restroom trailers, three for women and two for men. Roger; have you thought about putting permanent bathrooms in? Is that a recommendation or a necessity in this situation? Krista; I don't believe that it is. Dale; the Fire Marshall says that.... Inaudible. Roger; where was your parking lot going to be? David; the whole front yard is flat above those trees (referencing overhead map). Paul; and that is sufficient to park on if it is a wet spring? **David**; it never gotten wet up there on the top, the bottom only. **Jay**; what year was the building built? David; I don't know, 25 years ago maybe. Jay; was it inspected and does it meet our county codes? Dale; we just added on to it last year and it was all redone, all the codes were up to date and was all inspected. Jay; was the county inspector ever out there? Dale; yes, 3-4 times. Krista; that was a residential barn, not a commercial barn. Jay; I'm just making sure, sometimes some of the ag buildings start out with no electric, it is added later on and they bypass the county inspections. Melissa; the codes that were followed would have been for a residential use, not this use so there may be variances as well. Another thing for the board to consider is how the use fits in with the use that is in the area, the zoning classifications and the other uses of that property. Roger; what is the distance from the east side and north side to your property line? David; I would estimate it to be around 60' to the east and 80' on the other side. Paul; to the east would be the approximate width of the building, about how wide is the building? **David**; 50'. **Paul**; so it's fair to say 50' to the east, to the north.

## Audience:

**Don Butz** stated that he owns what surrounds the Gramman's property and that he moved there in 1984 and he worked 3 jobs to get what he has. The reason he moved there was so he wouldn't have to put up with this. The party that they had last year I had trash on my property and I had candles that had a spot burn in the field, if we have a dry spell it will catch it all on fire. We heard the music, I don't know what time they had to quit, I have seen the flat ground flood before. The road has been corrected by the county once, there were some people killed up by Metz's. If you put people out there who have been drinking there will be somebody out there is probably going to get hurt. The corner on the other end is just as bad. The Metz' has cattle, I'm

concerned with the events spooking cattle. The cattle if spooked can run through the fence and hurt someone. **Jay**; how many cattle do you run in your pasture? **Don**; there has been as many as 40. I have it rented out now to Norm Wolters and he has cattle there too. Jay; how far away is your home from this particular building? **Don**; it's probably 1000' to 1500', something like that. Brian Keith; I own property south of them, I've know them for 30 years, I knew Sam when he built the cabin and the barn. They had their daughter's event there and I attended last year. It was very well managed and clean. We didn't stay all night and we went back to the house and the noise didn't bother us. I'm the closet neighbor as far as a residence, as far as the parking my property on top stays dry. I have no problems with it. They've done a lot of work, it's nice. **Don**; my main concern is the cattle. **Jay**; what is the condition of the fence? **Don**; it's good along that side, not that old. Jay; the cattle doesn't typically get out now? Don; no. Roger; you say that this is not being inspected as commercial? Krista; it was not, but it will have to be. Roger; and they know that is the case, she said it was inspected and that it was up to date, but is it up to date as commercial? **Krista**; no, it is not. It would have to be determined by the Fire Marshall and the Indiana Department of Homeland Security would have to have a Construction Design Release approved to be sure that it meets code. Jay; so they need approval or action from this board in order to move onto the next step? Krista; right. Roger; the Fire Marshall will inspect what part of the building? Krista; the entire building. Roger; all parts of the structure, the foundation and things like that? **Krista**; yes. **Jay**; who would be liable after the Fire Marshall signs off on this and they begin their events, is the county held liable, they will be of course but the county is just permitted this conditional use for the ground, it doesn't have anything to do with the events or the functions held there. Melissa; what you would be approving is the use of the property conditioned upon them meeting all of the qualifications and requirements of the things that Krista has mentioned, the Fire Marshall, the Entertainment Permit, anything that is required at the State or Federal level to function in this capacity, they would have to meet those requirements. We do not know if they will, they haven't been there yet, so you are just approving that it would be a suitable location for this type of event center if all of those conditions are met. Jay; can we set the capacity of that building as a board, can we determine the max capacity, restrict it to say 150 people, is that within our power to do that? Melissa; granting conditional uses, this board can set the parameters of what they want to see for it to function there, however, you cannot set a capacity greater than what the Fire Marshall would approve. Jay; it could be less than? Melissa; yes but not greater than. Janey; is this a single story building? **Dale**; yes, with a cement floor. **Roger**; I'm more concerned with 100 vehicles leaving in a matter of a few minutes. Janey; can vehicles pass on the bridge? David; no. Dale; it's not really a bridge, it's a culvert. Roger; I don't know if that road is wide enough for the access. Paul; would that be something within the Fire Marshalls umbrella? That's one thing that I have a concern over, if a medical emergency were to happen and it's been a wet day, an emergency vehicle approaches.....Dale; we can talk to the Fire Marshall about roping that off, on one side there is room but not on the other. Roger; how many events have you scheduled to that scale? How much experience have you had in putting together an event like this? **David**; we've done events but not at our house, only our daughters, we had 400-500 people. Roger; those were all controlled and invited people. David; right. Roger; now you would not have control of who would be invited to these events in the future, correct? David; not completely but I will not just rent it out to everyone, I will be screening who it is that will be coming in there. Roger; but you are not going to vet the invitations that they put out. David; the only people I will screen is the people who will be renting the facility. If I don't have good vibes about them it won't happen. I cannot control who they invite but I'm hoping that person who rents it won't invite those types of people. Mrs. Butz; recently we have had thefts at our house, with more

people out there..... Don; you will have wedding crashers. The main concern is still cattle. Jay; will fireworks be set off at any time, will that be something that is permitted out there? **David**; if I know about it, no. Roger; that is where the board is sitting here, in the 16 years that I have been here we have never crossed this bridge so when we start talking about, we are bringing in something that is not covered very well in an ordinance that we have. By bringing up these things that are becoming out of our control and your control, it is going to be up to you if you were able to prove that you will set your guidelines pretty strict to protect yourself and everyone in the surrounding area. There is going to be things that you will have to really consider, the fireworks is one thing that you will have to consider. **David**; I don't want the fireworks, I have livestock, not at this location, but I know the neighbors do and I know that they can make an animal run through the fence. Roger; are you going to have security? David; I guess I would have to adjust it according to what I see happen. Roger; the problem is that you will make the adjustment after the fact. Our job up here is to prevent the fire from starting. We don't want anything to happen from day one and I hope that is your intentions also. Joyce; have you decided yet on what type of form that you would have people to sign, you can put on there no fireworks, etc. and these people should comply with you. It would be your discretion on whether you call the police to get them out of there. But you do need to have some sort of rental agreement to make sure that none of that happens. Dale; I've talked with a lawyer and if approved the lawyer will draw up the rental agreement. I just know that when my daughter got married last year, this county has nothing, no place to have a wedding. Joyce; I appreciate you trying to do it the right way. Jay; Don, do you believe this will impact the value and the use of your ground? Will you have to change the way you use your ground? **Don**; I don't think it will change it but I feel it will impact the value because the amount of ground and the home I have. Dale; do you have a map to show how far away he is? Krista; pointed out to the board where each neighbor lived. **Jay**: I believe that this boards objective is to try to make everyone happy and to make it work out for everyone, we have to be able to say that we have not created a hardship by permitting it. That is what we are digging in for, most everyone in here would agree that Greensburg is short of entertainment, eating facilities, etc. and I think this is a great attempt to do this. Is it in the right location for this to happen. It's not about you or your idea, we are trying to search whether or not we are making a positive or negative impact when everyone leaves here tonight. We may disappoint people but our objective is to get to the greater good. Roger; public safety is the utmost important thing. One thing that concerns me is the amount of traffic that will increase on the back roads, most will be going in the same direction and the other things is your driveway, I would like to see access that would allow two vehicles to pass. Somewhere down the road you may have to deal with that. Hopefully not from a safety or emergency situation but it might happen and I don't want that to happen to someone who is there and needs emergency attention and can't get out. Janey; how far away are they from emergency personnel like a fire department? **David**; 2 miles from the Elementary, I would guess 4 miles from the Greensburg Fire Department. Roger; when the vehicles leave that property, which direction will they travel? **David**; it depends on where they are going, if going back toward Greensburg they would turn left. Jay; if this was to pass as a conditional use what length of duration would work for you, if it was to be made into a motion would a 2 year conditional use be adequate and then you would be required to come back and we can evaluate and determine whether or not you can continue. We would address any, if there are any issues with you at this time. **David**; I think that the paperwork that we signed has a 5 year contingency on it before you have to do it again. Roger; that is the maximum. We still have the option to put the time frame on this. **Brian;** if I may, I was going to suggest a shorter period, maybe a year, since it is new, they may not think that it will out. What is the harm in trying, they do live there so they will not

let things get out of hand. **David**; I don't think a year is long enough, most of the time if you reserve a venue it is done a year or more in advance. Jay; so 1 year is not acceptable? David; no, when you are trying to rent a facility. Jay; I don't think a year is good as well. Don; are these going to happen thru the week or just Saturday's? This could go on every night, how late could they go, and who would set that up. **David**; I would hope no more than once a week, not even sure if it will be that often. I don't want it during the week because I live there. Roger; these are questions that both you and I, the board doesn't know, we are not trying to badger you by any means, we just want to cover things that we don't know and the you might not know. Paul; it will minimize surprises down the road. Jay; we are trying to make the maximum amount of people happy here tonight. Roger; right now I don't know what the Fire Marshall covers, can you tell me what they will inspect? Krista; I cannot tell you the entire scope. Roger; is there something that we need to discuss with the Fire Marshall and get that information first before approving this, that way we would have more information. Jay; Krista, you taped the conversation with the Fire Marshall. Dale; basically I understood the Fire Marshall to say that all the BZA was doing was to give us permission to go through to talk to him. And you are telling us that we can lease the building for this but he has to approve everything. **David**; I think it's the driveway where the fire truck can get in and the structure. Roger; those are things that we don't know. Krista; that was my understanding but the specifics were not discussed. David; I wouldn't be approving the bridge either, I wasn't going into it any further because I have to get a bridge contractor to come in to inspect the bridge and get his recommendation. There was no point in me spending any more money until I get approval to do this. Roger; a key thing here is what the Fire Marshalls recommendations will be, so we can approve this as of right now but we still don't know what the Fire Marshall will cover. Is it going to cost you to have the Fire Marshall come out? **David**; no, there is a fee of \$2500 - \$5000 to even get him to get it approved. You can't deal directly with him, we have to get an advocate that takes care of that. **Don**; is the Fire Marshall aware of the cattle? Are there any regulations? **Paul**; it's doubtful, the main concern is safety of people in attendance. Roger; the integrity of the fence will be what you are responsible for. Jay; I've been to events in Kentucky where people are coming and going and there have had horses running around, with livestock and this event is possible to happen at the same time. I think your concern is real and if it were me I would be asking the same questions and I would request that the Grammans put into their rules of no fireworks and being a good neighbor to you and everyone else. I don't see this as an unreasonable request. Livestock and parties do mix. **Paul**; bear in mind this is a conditional use and is a max of 5 years if approved, and then will be sitting down and re-evaluating. If those things mentioned would become situations that is certainly something that will be evaluated. Roger; if it's not controllable or things are out of control then we have the option to not approve a continuance. Jay; Paul, I'm going to throw out a number of 3 years in the motion and see where our discussion with the board goes and see if it is acceptable to Mr. Gramman. Paul; I think it is a reasonable amount of time to see whether it does or doesn't truly affect the neighbors from a safety standpoint of affect the property values. Roger; so when we approve it, will it be from tonight, he is already out of the partying season. Jay; that would give him 2 full seasons to get it up and going, if there is a need it will be full. Paul; is a three year timeframe ok, do you feel that 2 seasons will give you time to see if this is something that you would like to do moving forward? Dale; I don't have a problem with that, my problem would be with people that are calling me wanting to book for 2019. So if we are into the end of 2020, I wouldn't be able to book for 2021 until I was reviewed. Tell me how I would handle that. Jay; if we give you the 5 year you won't be able to book into 2023 so it's an endless jump here. Dale; I need to be able to come to you in 2 years and ask if it looks like everything is going ok. **Paul**; you are certainly

welcome to talk to any of us, that's how this works but I think it would be more beneficial to talk to your neighbors. In 3 years from now your neighbors would be the ones sounding the loudest siren. Jay; if the neighbors are all happy, I would think that it would be reassurance that you are doing things good. If you are successful and everyone is happy, then I don't see that you are going to have a problem. I can say that, I may not be here. Roger; even the occurrences on the road, you will increase that traffic and it will be late night timeframes. If something were to happen you would know. Paul; is it out of line, to appease the neighbors, to have a fireworks restriction? David; no. Paul; if no other comments from the audience or the board I would entertain a motion that would include a 3 years "Conditional Use". Jay; do we need to include the fireworks thing or is it something that we let them work that out? What is your recommendation Melissa? **Melissa**; I would include it that your approval is conditional upon them passing all of the Fire Marshalls requirements, the entertainment license and any other permits that they are required to obtain in order to run this type of facility on their property. **Roger**; is there a required amount of liability that they have to assume as far as damages? Melissa; they will have to talk to their agent about that. Jay; so the conditional use will not stand if they do not meet the bridge and structural approvals, if they fail then our conditional use will fail, they won't carry this conditional use. David; You know that I can do this for friends and family, not for renting out. I can still have a party, I just can't rent it out.

Jay Hatton made a motion to vote on BZA Petition 2018-13 for a 3 year "Conditional Use" and must pass all of the requirements and get the permits necessary from all local, state and federal bodies to hold this event center with the stipulation of no firearms (discharged) or fireworks will be permitted; Joyce Brindley seconded the motion with all 5 members voting yes.

**Paul**; moving forward the land is not approved by the County to go to the next step, likely the Fire Marshall is your next step, the condition of this is pending that you satisfy all of the requirements of all local, state and federal agencies. I would remind you to keep in a good fair condition with your neighbors, music at reasonable hours, lack of fireworks and things like that and I would say you would have good luck to continue this. Don, in 3 years you are likely not going to be selling the place, if this doesn't go right we should be in good shape, fair enough? **Don**; fair enough, sounds good.

\* BZA Petition 2018-14 – Natalie Schroeder is requesting a "Conditional Use" as provided in the Decatur County Zoning Ordinance Section # 935(2) to turn and existing structure into a rental facility for events. The property is owned by the petitioners and is located at 4935 E CR 800 N, Rushville in Fugit Township.

Natalie stated that the yard on the side will be the parking lot for this facility. **Paul**; and this will be crushed stone? **Natalie**; yes. I had the fire chief out there to look at it. **Paul**; you will be subject to the same things as the Gramman's. **Natalie**; after we get through this I will be going through the other stuff. **Roger**; so is this building currently there? **Dillon**; it is still under construction, it was built as an ag building and we are going to make it commercial. **Jay**; tell us about the building? What is the building, what size is it? **Natalie**; it is 60' x 52'. **Dillon**; it has a 12' exposed lean to on one side of it, it has 2 sliding doors on each gabled end and two man doors on each end with an 8' sliding door in the center. **Jay**; concrete floor, wooden or dirt? **Dillon**; concrete floor. **Jay**; insulated, an all season building? You will have heat and air conditioning? **Natalie**; yes. **Joyce**; will you have restrooms? **Natalie**; right now we will have to

go with Port-o-Lets. Jay; same instance as the first petition the same thing will pertain to you, you will have fees to get the fire marshall out there to examine things. Everything is parallel except for the location. Roger; do you have a plan to put restroom facilities in? Natalie; it is my 5 year plan. I will have to get a septic. Roger; will you have room for that septic? Natalie; yes. Paul; what is the size of your property? Natalie; 5 acres. Paul; and the parking lot will be between the road and the building? Natalie; yes, on the west side of the driveway, we are widening the driveway. Janey; is your home there? Natalie; yes. Roger; will this have running water? Natalie; eventually, we have to go through variances to get that done. Jay; will the food be catered in? The food and eating utensils and such will all be brought in and then it will also be gone when they leave? Natalie; yes. Jay; so you will be responsible for the structure, electric and safety and all the other things involved, you are not serving food? Natalie; that is right. Jay; alcohol permit? Natalie; as long as they have a licensed bartender is what it consisted of, that's in the contract. I'm glad you mentioned fireworks earlier, we will not have those either. Jay; it will just make your neighbors happier. Paul; no plumbing at this time? Obviously when you do go with the plumbing you realize there are some governing things here. Natalie; yes, I know. She has me in line. Roger; I see you have a venue rental agreement here, is this the basic, your beginning? Natalie; that is what we will be using. Roger; so there are some things that you will be adding onto it per the discussions that you have heard here tonight. Natalie; yes. Paul; I appreciate some of the additional information you have provided. Jay; it is a very thorough packet, I was very impressed with the amount of work that you have done so far to help us. Roger; I hope that this is something that you would pass on to the Grammans. Jay; Is 3 years going to work for you just so we treat each of you the same, see how it goes. I personally believe that it is the right way to go about this. I hope it all works out and that both of you are successful. Is that something that you would be ok with? Natalie; I would be fine with that as long as we can come back early for scheduling purposes. Roger; there shouldn't be an issue with that because you will be getting into the next spring's events, you will slow down somewhat in the winter. Roger; what is the capacity of this building? Natalie; 228 with tables and chairs, 487 with chairs only. **Jovce**; the fire marshall did have a sheet in the packet which had the information on it. Roger; that was from the Clarksburg Vol. Fire Department, not the State Fire Marshall.

With no other comments from the board or the audience Roger Krzyzanowski made a motion to vote on BZA Petition 2018-14 with the stipulation that it is for a 3 year "Conditional Use", must pass all requirements and get the permits necessary from local, state and federal governing bodies and that there will no firearms and no fireworks discharged at this location for any of your events; Janey Livingston seconded the motion with all members present voting yes.

**Paul;** I'll remind you that this is stating that the county sees the land fit to be used for this as long as the state views the structure and access to be safe for it. Thank you and good luck moving forward.

\* BZA Petition 2018-15 – CMI Acquisitions / Lesley Cordileone is requesting a <u>"Permanent Special Exception"</u> as provided in the Decatur County Zoning Ordinance Section # 1504(D) to build a wireless communication tower. The property is owned by Clay Civil Township Corp. and is located south of 8433 W CR 100 S, Greensburg in Clay Township.

David McGee spoke on behalf of Lesley. The tower is a 295' self-supporting tower on the southeast corner of the property. For Verizon to eliminate the coverage gap, engineers said that

this was the best suited locations for local residents, farmers and businesses in the area and would best link up with existing towers, which are somewhat distant. (David passed out some propagation coverage maps). We have worked with David Isreal for this site and have agreed to give the township a location on the tower for their communications equipment at 150' which is incorporated in the lease and will help increase public safety. We have a removal agreement which was presented tonight, to remove the concrete below grade down to 6'. Jay; that is something that we have been asking of all towers. Roger; to the end of the term? David; yes sir, we have a lease agreement and at the expiration at such time in the future. Roger; what is the end of the term.? **David**; lease term is 40 years total time, when they decide the lease. **Roger**; so in 20 years if this is not needed anymore you are still not obligated to remove it for the next 20 years. **David**; no, there is a provision that if the technology changes or for whatever reason it is not in use, they will remove it at their expense and remove all the equipment and the concrete down to 6' below grade. Roger; so this will be approx. 3 miles to the next tower? David; that is correct. Roger; how close are we getting to saturation? David; I was surprised at what kind of a dead spot that this was, we are getting close, just trying to fill in the gaps. Roger; we did 4-5 last year and this is the first this year. **Jay**; those were all in the southern part of the county where the terrain is much different. Roger; some were just boosters too. Janey; does this resolve the dead spot in the Hartsville area? **David**; it will go 4 miles to the SW, it may not directly cover Hartsville but the tower close to Hartsville will be operating much more efficiently since it will be relieved from this tower. **Paul**; these towers are designed, in the event of structural failure to collapse inside itself, correct? **David**, that is correct, they do soil resistivity tests and then design the foundation accordingly, there are a lot of State and Federal specifications. Jay; are you fencing up to the property line, what is the distance of the fence away from the property line. **David**; the tower is centered in the 100' x 100' area and the area to be fenced in I think would be 60' x 60'. Jay; I was just thinking that if Burney were to grow if there would be room along that area for more infrastructure such as rural water. **David**; there should be room for that, especially since we are not fencing in the entire leased area. Jay; how many providers are on this tower? **David**; this is built to suit Verizon, designed for future tenants up to 6 total. Roger; do you have carriers lined up? David; we have designated one space for the Township and 4 for Verizon. Jay; what is the possibility for a farm entity being able to rent space on this tower for an RTK setup or something that is widely used, is that possible for a farm entity or business to approach Verizon to get an RTK put on the tower? **David**; I would think so, I'm not sure that I have direct experience with that but they certainly work with townships for emergency antennas and I would think that they would consider that. Roger; what is the cost to access the tower? David; I don't know, it's based on the amount of equipment. Jay; there would be a blinking light at the top as well? David; yes, over 200' FAA requires that, this has a dual mode that turns red at dusk and doesn't shine on anyone's property.

Audience; **David Israel** (Israel for future reference) I researched this pretty well, talking to farmers having issues with towers being built like this. There were two proposed sites in Clay Township, one which would have taken out some farm ground and the best site was here on the property, the elevation and it being close to Highway 46. There are several dead spots in the area and the tower will reach into Shelby County as well. Jerome Buening was approached about this and he contacted me. I ran it through my township board and they are all on board with this. We wanted a spot on the tower for emergency services. It would be ran through Clay Township. If we had a major disaster that antenna site would have an emergency backup power. It is in the contract that we have 24 hour access to the site and I (or the Township) will have the code to the gate to get into it. **Jay**; the schools have implemented the students taking home ipads and the

home wifi is so much more critical throughout our county. This tower will help broaden that a little bit. Margaret Derflinger; my main concern is safety. I have heard that living within 100' of one of these would be dangerous. I think I heard 65' thrown out there. How far is it from the main road? Paul; approximately 1200' according to this map. Isreal; the street there that went into the old ball diamond would be used as an access for them to go through to build the tower. There is a 14' alley inside there as well. **Margaret**; is the 100' that I have heard accurate in relation to safety? **David**; the output is regulated by the FCC strictly and Verizon will adhere to those regulations. They do testing during the installation and after to be sure it falls within those guidelines. The wattage output is low. The FCC has determined that there is no harm anywhere near the site but I like to tell folks that there are a lot of hospitals around that have antennas on them and they have been determined to be safe. It will be rigorously tested to be within those guidelines. I invite people to go the American Cancer website and it will tell you that they agree that there is no harm with the emissions. Jay; how do they handle lightning strikes? David; they have a really good system for that, there is a 5' rod on top of this and it is grounded all the way around the circumference, there are steel rods in the ground, which you would have in your packet. The steel rods are deep into the ground and they are well prepared for lightning. Jay; so the likelihood of someone living within 100' of this and a lightning strike hitting the tower would not bounce off the tower and go to another home, it is more likely to stay with the tower. **David**; that is correct and it is actually safe to be next to the tower because it is designed to ground deep into the ground. Paul; what is the longest life of this structure and what happens at that time? **David**; tower companies are trying to extend leases because the demand is still there, they don't want to have to take them down if they can stay up. The guide wire towers require more maintenance, but this is not the type that we are proposing here. This tower is galvanized steel and have a lot longer life span. Any time anything is changed they do a structural evaluation on them. Paul; so this is permanent, is there someone that confirms the integrity of this structure outside of the private company that owns it? **David**; they have to have current equipment on it for it to be functional, they have to upgrade things about every two years be it antennas or wires. The lighting is reviewed by the FAA so the whole system gets pretty constant reviews. **Paul**; when the base is secure I do believe that this thing will fall upon itself but what happens if one of those legs were to, in 60 years, become rusted and start to lean one way is there someone who inspects it beyond the private company that owns it because there is not a lot of desire there to spend money to rebuild. **David**; the tower companies have routine inspections, the carriers probably on average come out once a month. It's pretty routine, the insurance is pretty costly on steel in the air. Janey; I worked for a telephone company for 33 years, mostly the wireless in the end and it is such a big investment by the wireless provider, they (the engineers) go out quite frequently, I think you are pretty safe for it being safe, that equipment up there is very expensive. Gordon Smiley; I'm an adjoining landowner, I think it's a good idea. How are you going to feed that, are you bringing in a fiber line or is everything going to be wireless? **David**; there will be fiber to it, two utilities are power and fiber. Gordon; how are we bringing the fiber in? David; the fiber is underground inside our access easement. Gordon; I understand that, I'm talking about the local landowners, are you coming from the south, the northeast? We have a lot of field tile in these fields and that gets to be a point of restoration. David; that I'm not sure of, typically they go by the public road right of way. Gordon; I guess I'm questioning the long term route, the short term I'm not concerned about. Just for information there is rural water lines and other things there that you are going to have to access. All these things need to be made clear to us as to where you are coming from. As we are trying to think about expanding the wireless and the internet is there something that the county can be involved with this, can we pick up a lot of higher internet speeds? I'm just trying to open that can up and think out loud, if you are bringing

in the fiber lets utilize it to the full extent. **Jay**; it goes down base road and runs over to old highway 46. I'm sure it's along that 46 route, I assume but I don't know how it is going to Burney. **Isreal**; I thought the fiber ran by the firehouse on 190. **David**; I didn't do the field work on this site, if I had I would know where the fiber is, we have a fiber plan but it sounds as though it's in front of the firehouse. **Gordon**; I thinks it's a good point for the county to look forward and tap into that. **Roge**r; not all of your towers are fiber fed that I know of. **David**; the one's we have now a days are, the data demands are so high that the copper works like when we just had voice.... Inaudible. **David**; years ago on remote sites that didn't have fiber run, they can microwave it to the site but that is not as efficient. I think it still works.

With no other comments from the board or audience, Roger Krzyzanowski made a motion to vote on BZA Petition 2018-15; Joyce Brindley seconded the motion with all 5 members voting yes.

\* BZA Petition 2018-16 – Harvey & Angela Asbury is requesting a "Conditional Use" as provided in the Decatur County Zoning Ordinance Section # 935(2) to operate a trucking company at their residence. The property is owned by the petitioners and is located at 156 N CR 80 NE, Greensburg in Washington Township.

Harvey stated that they have 4.84 acres. They were out on 421 across from old Catholic Church and recently sold it to Dollar General Store. I am bringing anywhere from 3-4 trucks/trailers to that locations. Will be 4 occasionally but most of the time it will be 3. I have 2 brothers who work for me and they will take their trucks home with them. I will also leave 3-4 of my trailers in Madison, when I get them loaded instead of bringing them home. So 2-3 trailers and 3 trucks. If you have driven by you can see that I have put a parking lot in that is sufficient enough to get all the way off the road and traffic can go both ways. Mark Mohr was there to be sure I have a line of sight to get in and out.

Paul; so there is sufficient area that you won't need to stop on the road to back in? Harvey; yes, I can get completely off the road so that if someone was following me I can get off, let them go by and then I will pull out on my road with the tractor only, not the trailer to get into position. Once I get parked, my tractor will be 50' from the road. Paul; 3-4 vehicles/trailers? Harvey; 3 trailers for sure and 3 trucks. Once this came about and I saw how much room I would have I approached my supplier in Madison about leaving my loaded trailer sitting there. Probably the most I would ever have would be 3 trailers with one being empty. Most of my guys get back on Friday at noon or Thursday evening late and then they are leaving by noon on Sunday, so that's the only time the trailers get there besides my personal one. Paul; you all have done a nice job of keeping the lot on 421 orderly and parked well. Let's say 5 years from now, what does Asbury trucking look like at that point? **Harvey**; I have been told that I can only do 5 by my wife. 5 is the most I will ever have. I don't have a desire to be bigger. The brothers that drive for me talked me into getting another truck so that is how I ended with 5 instead of 4. **Roger**; there is never ever no chance. I noticed there is a house being constructed, was that before this fact or after, which came first? Harvey; I got approval 4-5 years ago. We came into a meeting 4-5 years ago to do this and it has just started. I just didn't get the house before this. The Dollar General deal came about in February to buy my other property. It wasn't until about 2 months ago that the deal was happening for sure. Jay; most of the loads look wide and long, what are your thoughts on the county road with the proximity of the school? The county road is not

straight. Harvey; the trucks that go to GECOM come along there all day long, there are a few times that I am 108", that is the stuff that you are seeing. That is probably once a month, at times more often. I have paid attention to what goes on and I go that way to go to GECOM and other companies use that road as well. The 60' beams that we haul are lightweight, they are not heavy. They are engineered lumber and look worse than they are. I made my parking lot big enough to get on and off with them. The truth is we only bring them home very occasional. Jay; you can make the turn down at Springmeyers? **Harvey**; yes, that is the way I go and the highway garage has theirs there, they have a low boy that is probably 50' long and they make the corner. Roger; so that is a normal truck route? **Harvey**; I have no idea what it's labeled, I just know what happens. Roger; I had no idea there was that much truck traffic on a road like that. Harvey; all I know is what I see. Crum goes by all the time as well as Billman Trucking, of course I did. When they were taking the rock out of CVS every one of those trucks were taking that route. **Angela;** this isn't a day in day out where we have a sign on the door saying we're open come in. There might be 3 truck Friday at noon and leave Sunday before church traffic, never during school traffic. It's not constant in and out, when they are gone, they are gone. If they are sitting there we are not making money. They are out all the time, but his truck will be there. The land was originally zoned for our house and a detached garage, it will be tall enough so that if we need to change a tire, we can. It's not a traditional business that you have customers with foot traffic and clogging the road. Our driveway will accommodate everything we need. It will be neat and tidy always, well maintained, our equipment is new. We didn't think that this would be a big deal because that road is heavily traveled, especially with Lincoln Street being closed. It is very heavily traveled including semis. There is never a problem with the semis making that curve. Roger; you are talking about this and it's a temporary thing because Lincoln Street is closed, surely this is not a truck route here. Angela; no idea, it is not marked that it is or isn't a truck route. It's just a county road. Audience; there used to be a sign there that said no thru traffic, no trucks, I live right on 120. Harvey; I'm not saying that they travel it all the time, I'm not either and I won't be on it any more than Crum, I pay taxes here and so do the 5 people that work for me. There is definitely enough truck on it that would be the equivalent that what I'm using it for. Jay; when you come from the south to your lot you are going to pull into your lot then back onto the road to back in blocking the road. Harvey; I would pull out with the tractor, the trailer would still be on the lot. Jay; I just wanted to clarify that. What's the width that you made this lot? Harvey; 80' wide or so. Jay; when you got permitted to build a home, it was for a residence only, your driveway permit from the county, did you specify at that time that it would be an 80' drive? Harvey; I didn't at that time because like I said it all happened in about 2 months. Dollar General went to the state to get approved. Mark Mohr said the drive would be ok. He did tell me that what I do here I won't need a culvert pipe, I know it didn't mean put in asphalt but he did say that the runoff there was fine and that I wouldn't need a culvert. Roger; for the house? Harvey; yes, for the house. Angela; the drive will be covered, it's just the millings now. It will all be gravel like our old lot. Jay; so just as we asked the last petitions, do you believe that if this is approved and you get your 3-4 truck parked there, do you believe that you will change the value of the ground next to you, those unsold lots. Harvey; I don't think the farm ground behind or across from me will be affected. The lots on the other side I have already offered to Mr. Peters that I would buy that. It has really happened fast the past 2 months that I hadn't expected. I had the conversation with Mr. Peters 6 months ago about helping with a sewer but I already had septic. Jay; so the answer to the question is yes, it will be detrimental to the value of those lots and that is why you are choosing to buy them? Angela; no, that is not what we are telling you at all. It won't decrease the value of the lots, in my opinion. We are building a \$450,000 house there and it's not going to be junk in the yard, spare tires, etc. As far

as traffic on that road for semis, if you are off of at 120 and NE 80 split, we can just go back to 46 and not use 120. If 120 is not a truck route we can just go back by the county highway garage, but a sign would need to be put up because trucks use that regularly. Roger; one of the things that we do on the board here is try to look at the surrounding areas and currently we have a school and residential area. Now we are putting a business here. What we see now is a blacktopped driveway which is not what we are accustomed to seeing, other that the school system, everyone thinks that a school is part of the residential district, not a trucking firm. Harvey; I bought property in the county on purpose because I knew at the minimum that I would be taking my own truck home. I wanted more than the acreage that I would have to have to be declared in the county. Angela; what is the concern with the schools or the residences there, even though we are across the street? Roger; it's not only the school, it is the residential community around it. It is all a part of it, when you change something everyone had to accept it so when you go from residential and then put in a commercial business there, it is now a different look. Everyone has to accept it. Is there an ordinance that states how wide of an access that you cannot have to a public road? .....Inaudible. Harvey; the guy at the end of my road blocks the highway when he backs in. Angela; but he is in the city. Paul; that is the county. Angela; we look at it as ag use, ag probably has certain exemptions but they park on their ground and use those county roads all the time just like we would. We are not a big corporation, it's not, you are thinking that we are putting this big corporation across from the school when really it's just our house and we have our own personal equipment parked there. There is no Crum or Batesville Casket coming in, it is just us on our residence. It's being blown up to be a bigger company that what if actually is, we leave early in the morning and get in after rush hour traffic or around noon so you wouldn't even know we are there. Roger; we understand what we are doing but when you start out driving, there is a park on one side and then boom, it catches your eye. That is just the shock of some of these things that go on that people need to accept one way or the other. Jay; I think Krista has probably explained this to you but I'm going to repeat it, the language that we use is when it's only family there, if family it's one thing but non-family members as well. When you hire other people, that is what makes it a business, that is what changes this. Just for clarity, we understand that you are not GECOM, but you are also not just Harvey doing it, that is why it is begin looked at under a different set of eyes. You can take your truck home but it's the employees that makes it different. Paul; I come that way most mornings to work, part of me wants to see, I trust you will do a good job, I'm not questioning your ability to back a trailer, but I want to see that being its own self-contained thing, being able to maneuver off the road. I can tell you that if this goes through, in your next few years of doing this, there will be cars waiting on you to complete that backing maneuver. Harvey; yes, there is a possibility for sure. Paul; it's an area that is driven faster than it should be, its 55 mph, back to Rogers position, and there are neighbors here also, you come up that road, you have a walking trail, a city park, dog park, city street and then all of a sudden you have your parking area. It changes the feel of that part of town. Angela; between the walking trail and where we are is 13 acres of woods that is for sale for potential houses. Right now we are not right next to those things. **Paul**; to my point further, the way that the ordinance is worded is the area surrounding the subject. A person who lives in the area and how they would view this. Angela; I thought it was just adjoining property owners who were sent letters and could come and voice. Paul; that is correct but everyone in the community has a voice. Harvey; I'm building a \$450,000 house there, if I felt like...... Paul; the first point was that I appreciate how you kept the old lot, the point I'm trying to make is an 80' or 15' wide lot with semis sitting there, it changes the feel for those who live around you. 3-4-5 trailers is what you are wanting..... Harvey; 3 is about all that will fit, to get 4 will be tight. When I made the lot I knew that I had other places to leave my

trailers. **Paul**; if this comes to a vote do you have issues with us putting that as part of the conditional use, that the number of vehicles are limited. **Harvey**; I'm not looking for you to completely say yes, I understand that you want to see how it will work and I need to see for myself. I put in plenty of room to pull off on purpose. If traffic was to start to be stopping I'm sure you will hear about it. If the busses that come up have to stop I know you will hear about it. **Joyce**; my husband drove a truck for 45 years and my husband parked his truck right out if front of my house. Never ever heard a complaint, it was very quiet and I lived right in town. I know that none of us would be here if it weren't for trucks. I appreciate that you have kept things clean and that you have agreed to not put any more that 3 on there if we pass this.

Audience; Rose Rempy; we live on CR 120 East and have owned this property since the late 1980's. We are approx. <sup>1</sup>/<sub>4</sub> miles up the road from this. We are not in favor of this and appeal to you for the following reasons; 1. This narrow road is heavily traveled by residents in the area, many workers commuting to and from factories on Barachel Lane and during school several of the school busses transporting the children are on this road. This road is tight for passing a school bus, let alone a bus and semi. We feel the increased semi traffic may cause a potential safety hazard for the busses, children on the busses and other commuters. 2. This road was not designed for heavy semi traffic. The condition of our road now is deteriorating. 3. Our area is basically a residential area that adjoins a green space which contains Rebecca Park, Dog Park and walking trails. The county has invested a lot of money for these so residents would have a peaceful, natural and safe place to enjoy. We do not feel the trucking business would be harmonious with the green space or our residential area. 4. We are concerned of the possibility of our ground water being contaminated from diesel fuels and oil leaks. Ruth Wallpe; I agree with that as well. I don't know how many trucks they are considering. The semis that go by our place are from everywhere. They are correct in that, we have more trucks going by than we ever had and that is probably due to Lincoln Street being closed. Several years ago there was a sign that said "no thru trucks" and where that went I don't know. My other concern is with them accessing their property and getting off the road, there is just so much going on with the school traffic, it has more than tripled, and it's a safety concern. It is a residential area and green space. **Paul;** I will respond to a couple of those things, thanks for being here. The roads are of some concern and my response is that outside of proposed industrial sites, in every example the roads are fixed, widened or increased after the need instead of before the need. We are dealing with the edge of town, whether the Asbury's come or not, as time passes we will continue to see that the edges of town are moved out. They are valid points but no matter where this would happen there would be road condition concerns. **Tom Hunter**; I want to congratulate the Asbury's on your business. I know they are good stewards of keeping their property clean. My main concern is safety of our students. We have 35 busses going in and out of there twice a day and then multiple times after that for extracurricular events. We have, on occasion, have our busses hit, their mirrors by trucks and cars on a regular daily route because of the width of the road. We have spent a lot of money on our properties, we own 110 acres across from you. We gave 10 acres to the City/County for a new park, we are very much in favor of as much green space for the community as possible. Throw everything aside, my major concern is safety, not only the busses but we have invested in a Cross Country route around the perimeter, around that entire field there. We could have as many as 200 kids running there, the more distractions that drivers have the less attention that people pay. I have concerns of putting large vehicles on that road with our busses every day. Maybe you will be off the road while we are on it but.... Harvey; my intent is to never be there when the schools let out. **Tom**; under great weather conditions it's not as much a concern but with snow on the roads they cannot just get off the road, we worry about

the busses turning over. Once the house goes up and the barn, it will probably give it a different look than just a black parking lot out there. I think there are legitimate safety concerns. As you know they do go very fast coming down that road and I think everyone right now is very cognizant around 3 p.m. that there will be 35 busses coming down that road as well as 7-8 a.m. everyday. I caution you putting any more continual traffic on that road than what we have to just for the sake of our kids. Marie Wolter; I own land behind your business, farm machinery will be passing and the equipment is getting bigger, wider. If the Gramman's get their place of business open and they are talking about 100 cars, they will be taking that route back into Greensburg, so there is another thing to take into consideration. I know you talked about buying the lots beside you, were you planning on enlarging your truck business? Angela; no, if Danny breaks it up and we are able to buy 2-3 acres, we will leave it as woods because we want to be isolated from the parks. We would not make our driveway any bigger that it is. It will be graveled over, what you see now is fill and a base. Marie; there have been many accidents on that curve, I remember a fatality. Angela; I understand it's a concern. Jay; I'm involved in trucking business, it's important and I think you all set a good example, you are just one road too close to town, if you were on 200 I don't think this would be such a big deal. Public safety is a big concern, we go through a checklist, does it meet this or that, it's nothing about the business or you or the color of the lot, it is about being the right location for you to do your trucking. The home was a great location. Roger; Ruth, you commented that there was a no thru trucks on that road, is that correct? **Ruth**; I don't know what the rules were, I just remember seeing a sign. Roger; I just wanted to get more information about it. Ray Geis; NE 80 is one of the widest roads in the county. It is not a narrow road. Roger; that is all judgement, there are a lot of roads wider and narrower than NE 80. Ruth; the sign I was talking about was on 120, not NE 80. Jay; so public safety is the main concern. I have to decide if it was a great idea to put this business there when it's not zoned and we try to follow the latest Comprehensive Plan. It's all about the location for me. If there is a way to do all of your parking all the way off the road.... Angela; we can pull off the road and he can come in the house and go back out there later and get it parked. I don't think that's an issue out there as much as it was being on 421 and I appreciate the school issue because we do hear the kids and the cross country team. As far as the width of the road, that should have been addressed when the school went in. If the road gets widened that would be a plus for everyone but to say we are not happy about it because the road is narrow, we don't have anything to do with that. Harvey; we need to be cognizant of the hours and make sure it never happens. I can promise you that no one will be coming or going when the busses are there because I don't want to pass them either. Roger; your primary and the chronological order of how this came was to build a home, then an opportunity to sell the property and you decided to put your business here? Harvey; yes. Paul; if this comes to a motion I think that we can put some verbiage in there, Mr. Asbury has mentioned and reiterated that there is a big difference between a large scale business vs. a location to park a few trucks, that should be included in this request. Also there should be an abbreviated, less than 5 year time period that we can review this and see the effect and then reevaluate it at that time. Roger; and also if he terminates his trucking business then we would not renew this as a trucking business at that time. Jay; it's going to be a "conditional use" with Asbury trucking, when that business is no longer then this use would disappear. **Melissa**; that is correct, it is unique only to them. Paul; and you understand the reason why we wouldn't just change the zoning of the property, it would open up doors ..... Melissa; this isn't the correct board for that. Paul; there were two options initially discussed so I'm just explaining how we got to this point. Marie Wolter; will there be a limit on how many trucks they can have there at any one time? Jay; they said 3 trucks and 3 trailers. **Angela**; because we have 5 trucks but two are owner operators, they may take

their cab home or park it in our driveway, is that going to be an issue? Roger; now you have 5 trucks. Paul; I don't know that it's a concern for me personally that it's 3 or 4 or 5. It's that it doesn't turn into 8-9 or 10. **Angela;** no, 5 is the max. **Harvey**; I can only get 4 trailers there. There is probably 99% of the time that there will be 3 trailers there and truck wise, our two other drivers may park there to get their personal vehicles home, the truck won't sit there for two days, again we are only talking about Friday-Sunday. Jay; so give us the number that we are going to vote with, we need it defined, I hear 3 trailers, is it 3 tractors maybe 5 tractors? We need a defining number because if you put 6 there then we will pull the conditional use and this all evaporates. Harvey; I would say 4 tractors and 3 trailers. Jay; that is what we are asking for. Harvey; the guys come and go at different times. Jay; if we put limits on this and then there is 6 there and starts looking like Fraley's, then it all disappears. **Harvey**; I want to say 3 trailers and 4 tractors occasionally. Angela; we won't have ever more than 5 because we can't find good drivers. Roger; are you going to have on site fuel storage or maintenance? Harvey; no fuel and we do 99% of the maintenance on the road, I'm not going to say that we will pop the hood and check the oil, I don't change it there. If I did do that it would be at the end of the shop. I can't say that I won't ever change the oil there in case I can't get it done on the road because of time restraints. Rose; what about washing the trucks out there? Harvey; time doesn't allow it, we do it on the road or the two guys do it at their homes. Roger; are all your trucks tier 3? Harvey; yes they are, 2015 and above models of trucks. Paul; one more thing I would ask is that in the condition that your schedules change, if you would happen to be in the area off of Hwy 46 when school lets out, let that 10 minutes pass until the busses are gone. It is a very unlikely thing and a reasonable request. Harvey; we can do that, if I'm going to hit anywhere around 3 I will stop and eat or something.

With no other comments from the board or the audience Jay Hatton made a motion to vote on BZA Petition 2018-16 with the conditional use being 3 years and a limit of trailers being 3 and the number of tractors being 4 on the property and asking them to be extra cautious at the school and the safety concerns that have been noted, 3 year period; Joyce Brindley seconded the motion with 3 members voting yes and two members voting no.

**Paul**; thanks for coming in and presenting. Again we will revisit this in 3 years, I think you will have a good idea of how well this is maintained and that this is successful again.

With no other business to be brought before the board the meeting was adjourned at 9:19 p.m.

Decatur County Board of Zoning Appeal	
Secretary, Joyce Brindley	_
Decatur County Area Plan Commission	

Paul Stone

Decatur County Board of Zoning Appeals