

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 5, 2020 at the 911 Communications Center at 315 S Ireland Street in Greensburg. The meeting was called to order by Paul Stone. Present at the meeting was Paul Stone, Jay Hatton, Gary Fisher, Janey Livingston and Joyce Brindley. Also attending the meeting was Melissa Scholl, BZA Attorney, Krista Duvall – Decatur County Area Plan Director, Debbie Martin – Administrative Assistant and Rick Nobbe – Decatur County Commissioner.

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.*

***Approval of minutes:** The May 27, 2020 minutes were approved as mailed.

*** BZA Petition 2020-15 – Steven McCue** is requesting a “**Conditional Use**” in an A-1 zoning classification as provided in the Decatur County Zoning Ordinance Section # **935(2)(b)** to buy and sell firearms. The property is owned by James Smith Family Revocable Trust and is located 12852 S CR 700 W, Westport in **Jackson Township**.

Steve McCue: I would like have a business there at my home for trading firearms. Not a retail location but primarily through internet sales and gun shows. This environment of folks working at home it seems appropriate to me to have the business at the house and it meets all of the conditions that I had read about in terms of conditional use variance. My proposal is a 5 year variance to do that. **Paul;** I read your business plan, it seems like you have things in line, understand the controls of the request and how it is supposed to work. Are there any conditions or issues with neighbors, gunfire or anything like that that have been a problem up to now? **Steve;** I have one neighbor here, there is gun fire in the neighborhood like there is in all of the county. I hear neighbors shooting all the time. **Paul;** there will be no gun range or firing? **Steve;** no, the only firing would be on a personal basis as we have done in the past. **Jay;** will you allow your customers to fire on your property? **Steve;** no. **Jay;** you have experience in buying and selling and trading? **Steve;** yes but I want to take it to another level. **Joyce;** will you have a store there? **Steve;** no store, no sign. **Paul;** we see several of these every year, it seems like you have to have an FFL to purchase firearms and this would allow you to do so, just to let the audience know. **Steve;** yes. **Joyce;** are you going to build firearms there? **Steve;** eventually but maybe more of an assembly. **Paul;** the question was – would there be any machining of firearm parts, it sounds like the answer to that is no but potential assembly of components.

Audience: Michael Meyers; I was concerned about a firing range. What I witnesses Saturday you were firing some high caliber, only military type weapons, I don’t know anyone other than the military who has that kind of money to shoot those kinds of rounds off. I have been wondering about where this sound was coming from, I live 6 miles away from this property and I hear them. I think it is Muscatatuck, they are south of me and this sound is coming from the west of me. I have grandchildren that go into the woods, I’m sure you are shooting into a bank or something but the noise pollution from these weapons, I’m not into this. .22 rounds or target practice once in a while, what size rounds are you firing? **Steve;** .223. **Michael;** I don’t know

what a .223 is but there is a big boom once in a while, what is that? **Steve;** some guns are louder than others. **Michael;** no, it's like a huge boom. This is what is going to go on there, I'm opposing it. **Steve;** I'm a member of two different ranges and have privileges to shoot there so I seldom shoot at the house. Occasionally it's just convenience. I'm not sure that is me that you are hearing, I very seldom shoot at the house. I go to the ranges quite often. **Jay;** are you shooting into a bank? **Steve;** just a hillside. **Jay;** and that is toward this creek (referencing a map) or away from your house? **Steve;** correct. **Jay;** what is the closest house to you? Can you see any homes? **Steve;** no, there is a lot of elevation. **Jay;** it looks like a farm field through the wood so hopefully you are getting that bullet down on the ground before it leaves your property. **Steve;** it is. **Paul;** one of the rights that you have is to fire a firearm on your property. What I would ask or remind you of is that this is a conditional use, you will have to come in and reapply at the end of this. Please keep that in mind that if we should grant this, when you come in to reapply and we have 5 neighbors in here, your chances to re-new that aren't very good or in your favor. Keep in mind that if this is going to be something that will be breaking the sound barrier, high velocity stuff, take it to a range so your neighbors aren't being disturbed. Please be cognizant of your neighbors in that regard. **Steve;** with this conditional use it would not increase the shooting that I have at my house. **Janey;** did he say it would or would not? **Paul;** would not. **Joyce;** as long as we know that there will be no mass market firearms there and the high-powered things. Know that you will be back here if there are any problems. **Sharron Meyers;** anyone who moves to the country, they do so for peace and tranquility. To be subjected to conditions such as Syria and Iraq for an all-day long thing, I just don't think it's fair. It's not conducive to peaceful living.

Jay Hatton made a motion to vote on BZA 2020-15, Joyce Brindley seconded the motion with 4 members present voting yes and 1 member present voting no. **Paul;** your petition passes. But again I will ask you to be cognizant of your neighbors.

* **BZA Petition 2020-16 – Jared Hasselbring** is requesting a “**Conditional Use**” in an A-1 zoning classification as provided in the Decatur County Zoning Ordinance #935(2)(b) to operate a metal fabrication business for farm equipment repair in an existing building and a sign. The property is currently owned by **Curtis & Julie Hasselbring** and is located at 5067 W Base Road, Greensburg in **Clay Township**.

Paul; Read a letter from adjoining property owner; as an adjoining property owner I have no objections with the conditional use of this property. I do not believe it will infringe on or affect our property in any negative manner, in fact having a fabrication business close by will be a benefit for us when we have a need for quick repairs. John W. Corya.

Jared Hasselbring; I'm looking to start a metal fabrication shop, part-time for now so I can help farm with my parents. It will focus on farm equipment repair. **Paul;** will it be operated out of the machine shed there? **Jared;** yes. **Jay;** what type of fabrication are you going to do, will you make mass production of pieces? **Jared;** no, it's all single pieces of equipment repairs. **Jay;** what does your sign look like and how big will it be? **Jared;** there is a paper there. **Paul;** it looks like it is under the limit on the size. How far off of the road will it be? **Jared;** about 30'. **Paul;** I know the road through there is pretty straight, just ensure that there is not obstruction. It is a heavily traveled, fast road there. **Gary;** what type of machinery do you have in there or what do you propose? **Jared;** tractors, sprayers, combines potentially and lawn mowers. **Gary;** on the machine tools side, what kind of machinery? **Jared;** welders, iron worker that punches holes instead of drilling holes, inaudible..., you can cut out hard shapes parts and a lot of hand held

tools. **Jay;** are you thinking about adding employees? **Jared;** in the future it is a possibility but right now I'm just trying to get it to be full time. In a few years from now it is possible.

Janey Livingston made a motion to vote on BZA 2020-16; Jay Hatton seconded the motion will all 5 members present voting yes. **Paul;** your petition passes unanimously. Good luck with your venture. **Jared;** I appreciate it, does that include the sign? **Paul;** yes.

*** BZA Petition 2020-17 – 5K Properties / Sam Koester** is requesting a “**Permanent Special Exception**” in an A-1 zoning classification as provided in the Decatur County Zoning **Ordinance #2530** to construct (2) ponds on his property. The property is owned by the petitioner and is located at 1350 W CR 500 S, Greensburg in **Marion Township**.

Sam Koester: I want to build 2 ponds back to back, approximately 4 acres and 3 acres. The way the land lays it will work better to do that. I have hired Muckerheide Excavating and Wenning Excavating, they came in and cleared the area and did some test holes to be sure that we had the right consistency for the dam. It all panned out and we are ready to go. **Paul;** Carl Stier is down water of you? **Sam;** I talked to him the other day and he said he is fine with it. **Paul;** and that dam is at least the separation distance off of the property line? **Sam;** yes. The question I got is we have not cleared enough to get a better feel for it yet, but do we have to come back to the board if we want to put it closer to the property line? **Paul;** yes, what is the setback from the property line for the dam? **Krista;** 30' from water. **Sam;** I thought it was the bottom of the dam, then we should be ok. We are more like 80'-100' from the water. **Paul;** I think it is logical to separate the 2 bodies of water so you don't have such a big dam. That was my only concern, it looked like the setback off of the property line was close. **Jay;** it is going to be too far off of the road to have him put a draft for the fire departments but have you contacted them? **Sam;** I talked to Brad Schutte a little bit, there is one on my nephew's property ¼ mile down the road. **Paul;** what is your approximate depth of water at the dam? **Sam;** we are going to stay at the 20' limit on both of them. **Jay;** the water out of those fields that ran through that valley, that should help by damming it up for erosion control, even on the Stier property. **Sam;** it all funnels down to Stiers and we are going to put dry dams, 5 or 6 all around the pond and will also do a grass waterway or strip. **Jay;** so you will make filter strips to keep the sediment controlled? **Sam;** yes. **Paul;** ponds provide a lot of runoff control from dampening a lot of that 100-year flood rain water so that's a positive, a win for your neighbor as well. **Jay;** most of this ground that is feeding these ponds you own, correct? **Sam;** yes, most of what drains into it will be off of my property, maybe a couple of acres from Tim Woods property. Is there a timeline, we will try to build the first one this fall and may be next fall before we get the other one done? **Paul;** it's not like a building permit, this is permanent so I don't think there is a concern with that. **Jay;** you will have to come back if you change the project. It is advertised and presented as it is.

Joyce Brindley made a motion to vote on BZA 2020-17: Gary Fischer seconded the motion with all members present voting yes. **Paul;** good luck with your project.

Paul; I believe that Mr. Callahan is here, there was an item on the agenda last month for the Hillbilly Corner and I don't think you were here so you can come up. Krista, the situation was that we had some neighbors complaining about parking and trucks coming in and out of their driveway. It is my understanding that you did not get the letter last month.

Tim Callahan: I moved to the farm and it was sent to the old home address. We just want to know where we stand because we are getting ready to build a building. I don't know how many

neighbors are complaining, she is only open from 1-5 p.m. every day but Sundays. She just sells produce and some knick knacks. **Robin Carmer;** we are just selling produce, it's just a little shed and we sell produce and some farm house decorations. Customers in the community are loving it. As far as traffic goes, it is on the highway and there is a lot of traffic, I have about on an average of 20-25 customers a day. That is not a huge amount and most of those are not big trucks and trailers. We did start a petition just to show support for Hillbilly Corner, we have 1080 signatures in a matter of about 7-8 hours. We have all of the online comments printed. The elderly are loving it, they don't have to go to Walmart, they call in their order and I bring it out to them. They love coming here to get their produce. We have customers who come who are shut-ins. It is a place for them to go where there is not a lot of people. The community as far as where I stand, absolutely love it, they are saddened to think that we won't be there anymore. I did a count for 2 ½ hours, 72 cars went up and down 300 off of 46, 4 of those cars pulled into our place. It is a highly traveled road because it cuts from 46 to highway 3 and people love to burn it up. That road has been that busy since way before I ever came there. I just feel like the traffic issue is a little blown out of proportion. I also heard that someone complained that there were people there late at night and all hours of the day. I have a camera set up, it takes a picture and then sends it to my phone. There is no one there. We are open from 1-6 p.m., six days a week. We have been trying to use all local people for our produce, I have several supporters here tonight, one of which sells masks, I cannot keep the masks in stock. Everything that we are trying to do is keep things local and keep our prices down and serve a high-quality produce and decorations. We did have a problem with the lady who lives next door, she had an issue with kids playing in the back yard, had people coming to her door looking for Hillbilly Corner, we immediately addressed those concern, put up banners and signs. She said that just removing the address on Facebook and putting our building picture on Facebook that it has solved the problem. When a problem arises, I feel like we are doing our best to be quick to take care of it. **Paul;** that all makes sense, I'm happy to see you doing what you are doing. The petition was before my time on this board so Jay can speak on it. It is my understanding that it was petitioned as a Conditional Use, at the time you were going to have a home there and sell some produce. Now it has become more of a commercial situation where there is a stand-alone business there. The property is being used not as a personal residence with selling some things on the side... **Tim;** we have a septic system application at the State at the moment and we are waiting on them, with this Covid thing it is taking a while. **Jay;** so this will be a residence and a **Tim;** yes. **Jay;** which is what you petitioned us for, four and a half years ago. **Tim;** I have less than 6 months left to get this one moving. **Robin;** when we came to you in the beginning, we just honestly wanted to make sure it was ok that we would build a building and run a business out of it. And then we didn't do anything with it until last year we decided to see if it would fly, would it be worth our time and does people even want it. That is why we put the shed up. We don't want to go to the expense of building a building and one of us living there it it's not going to fly. **Jay;** I understand what you are saying and it makes good sense but for everyone that comes before us with a conditional use, we hear that they aren't following up with what they say they are going to do, it is this boards job to call you and say that you are not following the protocol in which you got your conditional use. That is what has happened, no one wants you to quit selling vegetables, we want you, if you are going to do this, do it like you said you were going to do it. Out of your home, instead a making a business style, it is not zoned for a business out there. We try to work with everyone in allowing these things to happen and we are just here as a check and balance to say the house isn't there, what are your plans, people are complaining, how about more parking to keep them off the road. All of these things are what we are hearing. Not about your vegetables and all of the service that you are doing but we need to follow the protocol that you came here four and a half years ago. **Robin;** honestly that was a mis-communication, we didn't realize that we had to have a home before we had the produce stand. **Jay;** that is the way the minutes read and that is the way I remember it. **Robin;** and I'm not saying that you are

wrong, I'm saying it was a mis-understanding by us. We have the building ready to go, just waiting on the septic permit from the State. **Jay**; thank you for coming and helping to clear this up, we will talk about this again in December when your conditional use expires and we will have to make an evaluation at that time and see where we stand on it. If it will have to be rezoned as a business or we can continue on if you will follow the protocol that you set. **Robin**; so is there a chance that when we build the home, is there a chance that we will be shut down completely? **Jay**; a conditional use if good for 5 years, if your neighbors are not complaining and everything is doing well, we typically don't come out of the woodwork and close, that is not what we are here to do. We are here to support and to get young businesses up so that you will succeed. I won't be here and so I don't know what the board will say. You have to do a good job all the time. Keeping your neighbors happy, keeping people off the road, if there is that much traffic on that road you need to be putting in.... **Robin**; honestly there has been no one park on the road. **Jay**; we are not there from 1-6, we only hear what we here, we have to call you in and have a talk about this, we are supportive of your business if it is run the way you said that you were going to do it. **Robin/Tim**; thank you.

With no other business to be brought before the board the meeting was adjourned at 7:35 p.m.

Decatur County Board of Zoning Appeal

Secretary, Gary Fischer

Decatur County Area Plan Commission

ATTEST:

Paul Stone, President Decatur County Board of Zoning Appeals