

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, May 1, 2024, at the Decatur County Courthouse. The meeting was called to order by Rick Hoeing. 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.

Rick Hoeing opened the meeting 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.*

* **Election of 2024 Officers:** **Melissa Scholl** opened the floor for nominations for the following positions:

President: Janey Livingston nominated Rick Hoeing; Joyce Brindley seconded.
Vice-President: Joyce Brindley nominated Paul Stone; Scott Smith seconded.
Secretary: Janey Livingston nominated Joyce Brindley; Rick Hoeing seconded.

With no other nominations from the floor the nominations were closed and a vote was taken for each office and all members present voted unanimously in favor of the nominations.

* **BZA Petition 2023-7 – Roy Saylor** requesting a “**Variance**” from provisions of the Decatur County 5 (R) to **not** require sidewalks, and a “**Variance**” from provisions of the Decatur Subdivision Control Ordinance #30 County Subdivision Control Ordinance #305 (W) to **not** require curb & gutters for 6 lots on Kentucky Ave. The property is currently owned by the petitioner and is located West of 207 W Kentucky Ave, Westport in **Sand Creek Township**.

Sandy Lowe: We would like to request a waiver for sidewalks, went before the Westport Town Council on May 15th and they approved the waiver of the town not requiring sidewalks. The curbs and gutters to be determined by the topographical survey, the engineer reports and recommendations and the counties requirements. The way I would read your comprehensive plan that says residential collector street should not be required to have curbs and gutters unless determined to be necessary by the planning director or designee, because of drainage maintenance or safety concerns. Kentucky Avenue from that plan is classified as a county or local road so we feel like unless the drainage design says it needs curb and gutters, we feel like we should be able to just go with the standard ditches and culverts. **Krista;** the original plan had multiple lots and there was a street coming off of Kentucky that went back to a couple of streets within the original subdivision request. That is why curbs and gutters were required or a variance would have been required. Now that there is only 6 lots on Kentucky Avenue, I still thing with the possibility of the subdivision going forward, or a phase 2 coming in, curbs and gutters may still be necessary, however, I could also see where, in my opinion, the drainage study would determine that. **Paul;** so, there is some history behind this. The 6 lots are at the top of this (referencing the overhead map) they are laid out along Kentucky Avenue. Before this turned into just 6 lots, was the plan that there would be an access road coming south between lots 3 and 4? **Audience;** that is access to the property to the land behind it. We plan to rent it out and let someone farm it. **Paul;** before it was 6 lots it was going to be more than that, correct? I thought from the last... **Rick;** the original petition had 18 lots, is that correct? **Audience;** multiple (inaudible). **Paul;** something like this was the

original? (inaudible). **Audience**; that is what we had roughed in. **Paul**; originally there was a road coming out to connect off of Wiley and a cul-de-sac at the west and the back parcel. **Audience**; (inaudible) there were some issues with that, some property owners were not happy with Wiley Street being extended. **Melissa**; I think what the board needs to make sure that we make provisions for, we don't know what the future is for this. So, if you do these 6 lots and you make provisions for that, it needs to be clearly stated that if any more expansion happens, it all falls back to our subdivision control ordinance. Regardless of what the comprehensive plan says, we have subdivision control ordinance in place and it controls the development and growth of these type of situations. We just need to be very clear that this isn't a green card to just develop without meeting those criteria. **Audience**; correct, we are very well aware that we are just passing the 6 lots and any other potential lots come about that we will have to start from step one and (inaudible) through the design phase. **Paul**; so if there were 6 additional houses there without a sidewalk, potentially it would be that that buss would stop 6 additional separate times? Is that correct, if there were a pathway for the kids to walk to a common pick up spot? **Audience**; I'm sorry, I don't know. If they stop at individual houses or if there is a bus stop at (inaudible) the bus goes straight back right before the curve and turn around and come back the other way. **Paul**; it would make a lot of sense, that densely populated, we are talking 90 foot wide lots, it would make sense that the bus wouldn't be stopping so much, if you all are saying there is no sidewalks, there would be really no means for kids to walk to a common spot, is that correct? **Sandy**; there is no sidewalks to any of those houses out there. **Paul**; there are a lot of houses that don't have septic systems either but that is not necessarily right. **Sandy**; worst case scenario we do have that space, so we are not paving it. I'm sure the school will get with this is they think something needs to be done with gravel, I don't know who is going to buy it, I don't know if lots are going to sell. I just don't know (inaudible). **Rick**; at one point it talked about us requiring any additions of future upgrades to have sidewalks, where is that at now? **Joyce**; because there are a few developments that have no sidewalks in them, moving forward now, you will have to do that. As far as the others, no, you cannot do that because our water system will not carry a whole bunch of water down those little ditches. In fact, those ditches, some of them are not over 10 foot deep. As far as these letters that we received, did you read them? I am not on the Westport Board anymore but it is the same thing. It said you will have to go back to the Westport Board in order to not put in the gutters and the curbs. We told you that it was ok to put them in without the sidewalks because we already have a few housing developments there that don't have sidewalks, but eventually, if you will notice, we have sidewalks going into our town. Everywhere in town will be new sidewalks, eventually. I think that as far as building the houses, we have no qualms with that but as far as putting all the water back into the drainage ditch out of 6 houses, I think that is just a little too much. There will not be anymore of just letting water run into ditches. **Sandy**; Bryan Gatewood said that they took a vote to waive the sidewalks with the understanding that it was only those six lots, not for anything else and that they would defer to the County and the drainage (inaudible). The letter reads as follows: *I am contacting you on behalf of the Westport Town Council to inform you and the Area Planning Commission that Mike Gasper and William Brewer, acting on behalf of Roy Saylor, presented the Westport Town Council with requests regarding the first six lots laid out on the property at 16-13-36-410-037.010-014. This presentation took place at the Monday, April 15, 2024, Town Council Meeting. The council was asked to waive requirements for sidewalks for the first six lots in this development project. The Westport Town Council voted unanimously 5:0 to approve the waiver for sidewalks ONLY for the first six lots of this development project. Any future development beyond the six lots (i.e. a Phase 2) will require another visit to the Westport Town Council for our approval of additional lots and any waivers. This waiver only pertains to sidewalks as the proposed subdivision will be required to uphold all additional county ordinances and development standards including those for cul-de-sacs, curbs, and gutters. Sincerely, Bryan Gatewood, President – Westport Town Council.* **Krista**; Bryan said that he would defer to the County standards and the drainage ordinance as to whether or not that would be necessary, they didn't want to make that decision but they would waive the sidewalks. **Rick**; their recommendations and approval to waive the sidewalks off of those 6 sites

only? **Krista**; yes. **Joyce**; I don't know how you can use farm land to do this. **Krista**; it is a sub-division, when you have a sub-division control ordinance and that will require an engineered drainage study. **Joyce**; we had a water study there and they told us that (inaudible). **Krista**; they will have to have another one. (inaudible) that determines what these six lots will do to the water flow. They will have to make sure additional water does not flow or back up on anyone. It will have to be controlled. Be it curbs and gutters or retention, detention, whatever. **Paul**; so at this point, without knowing more about it, I don't think I would be in a position to make an educated decision on whether or not this needs curbs and gutters. I think I would probably lean back on, if there will be a drainage study done, that that expert could determine something like that? **Krista**; the drainage study is going to be probably tens of thousands of dollars. The drainage study would determine and mandate what is done. If the study says that curbs and gutters need to be there in order to prevent water from backing up or additional water flowing somewhere, those measures would have to be taken. This has to be done before a permit is issued. **Paul**; are you all aware that a drainage study is necessary? **Audience**; yes, the drainage study takes all the factors of the topography, flow of the water, everything in there and they will say "this is what you need", we are well aware of this. **Krista**; it has to be done with even 6 lots. **Rick**; at this point to vote on this petition as a whole, we would need all of that information or are we voting on this as a separate item? **Krista**; I don't think it would be fair to require a drainage study at this point, in my opinion, I would say that we would vote on it, dependent on what the drainage study says and that they would be required to follow the drainage study to a T. **Janey**; also if another requirement, no further development. **Krista**; this is for 6 lots, in a few years if they bring in more, this process starts all over, new drainage study, new petition. **Paul**; who pays for the study? (inaudible) **Paul**; I guess this is my opinion, if the drainage study is necessary preceding with the development, it would seem like it would be logical to wait for the results of that and the expert can say what needs to happen. I think I would defer to whatever the expert recommends. As far as waiving the sidewalks, if the town is ok with that, I'm ok with it. I feel that Westport has control or knowledge of these six lots more so than I do. I don't live in the area. I personally am ok with that but if I was developing these and they are 90 feet wide that a sidewalk out there would provide a fair amount of value to them, but I'm ok with it is the town is ok with it. **Krista**; I have 2 voting sheets, one for sidewalks and one for curbs and gutters. **Melissa**; the board can decide if you are going to table the curbs and gutters pending receiving the report, so you can just vote on the sidewalks. **Joyce**; who will do this study? **Krista**; Roy would have to hire an engineer to do the study. **Joyce**; it won't be someone in the county? **Krista**; no. **Joyce**; will they not use the water study that I had done last year? **Krista**; no because it will be these six lots and how they will affect the flow of water.

Paul Stone made a motion to vote on the request to not require sidewalks, per the Subdivision Control Ordinance #305 (W); Joyce Brindley seconded the motion with all members present voting yes. Rick; your item A for a variance to not require sidewalks has been approved.

Rick; Item B, we have an option to vote on the curbs and gutters or to table that upon further information provided from the engineer on the water drainage study. Janey Livingston made a motion we defer, Paul Stone made a motion to table the curbs and gutters pending the results from the drainage study based on the development of the six lots and where that water goes to; Joyce Brindley seconded the motion.

* **BZA Petition 2024- 4 - Brian Gard** is requesting a “**Conditional Use**” to operate a performance & suspension business in an existing structure. The request falls under Decatur County Ordinance 935(2). The property is currently owned by the petitioner and is located at 945 E Barachel Lane, Greensburg in **Washington Township**.

Brian Gard: Kind of a semi-retirement plan. Planning on doing performance and suspension work for jeeps and some other automotive type work out of the shop. What whole purpose of starting the shop is more of a philanthropy type of approach too along with other churches in the area. People who are having trouble getting their car repaired because of money. I also want to have a plan to hire in a couple of high school interns. I have access to SAE training where I can put the interns through this class online and have some of them work on the cars. That is the purpose of the shop, not something that I want to be is a busy shop, just to keep myself busy and to have the ability to give back to the community. Are there any questions? **Rick;** so you're proposing that you establish this business in an existing structure on the property? **Brian;** yes. **Rick;** and you have adequate access to and from? **Brian;** yes. **Joyce;** and do you have parking by this building? **Brian;** it's a pretty big size parking area. **Paul;** which structure are you planning on using here is it 1 to the South or the north? **Brian;** To the north. **Janie;** to run a shop like that are a drain required? **Joyce;** I would say there are probably drains there right? **Brian;** There are no floor drains in the building because they don't want grease and such into the sewer system. **Joyce;** so you will have crystal flash or something come and pick up your daughter oils? **Brian;** we usually do not do oil changes. **Joyce;** But you will have grease around? **Brian;** we actually capture all of that and take that off. **Joyce;** I appreciate that you are using the students like that and the churches as well. I appreciate that there is people out there who helps out the neighbors. **Paul;** give us an idea as to what an average week or day looks like. The first thing that comes to concern you're installing these parts and these kids coming in after school and are there till 6:30-7 o'clock in the evening, changing exhaust and doing things like that. In what appears to be an entirely residential area, so when does this happen and how do you avoid or stay out of the concern with the noise of the impact wrenches and things like that running with neighbors so close? **Brian;** (inaudible) work evenings, the interns would it be during the summer so when they are off school. We may work an occasional Saturday but we don't typically work Saturdays. The intention is to do that during the summer time with the interns. So what we want to do is give them the ability to come in, and they will not be working on anything by themselves. It will be an ASE type online class, And then they might be a helper on a job so that they can learn and gain hands on experience but they will never be doing anything on their own. **Joyce;** Will there be a limit to the number of vehicles and people that you will have there at one time? **Brian;** yes, I don't want it to be a very big shop and for me my intention is to be a part time retirement thing. So I do want limit the number of hours and the number of vehicles per week and that sort of thing. **Rick;** Do you intend to have some type of retail shop or is this purely mechanical? **Brian;** I do sell parts and people can buy parts for me but I won't have any retail or anything like that. **Rick;** so you will have no storefront? **Janie;** do you plan on having any signage? **Brian;** just a sign on the building itself. **Joyce;** What is that building used for right now? **Brian;** Is my personal use at this time. **Joyce;** you work on yours? **Brian;** I work on other friends vehicles and stuff like that.

Audience:

Scott Burchett; as far as the business right now, it doesn't affect me, my concern is when Brian decides to retire, what happens to the business? Does it fall off, does he have the opportunity to sell it to someone else? As far as how big it gets for the traffic wise, us trying to get in and out. If he keeps it as small as it is I don't see where it is a problem. **Brian;** if I close, I won't sell because it's on my personal property so I would not have someone else operate in that location at all. As far as the business growing, I don't want it to be a big business, I want it to be something that we can focus on doing things right, especially during the summer, making sure that we can teach the kids.

Melissa; a conditional use is just for him, he doesn't have the opportunity to sell it. **Brian**; I wouldn't want someone else to run a business out of there. **Rick**; if you would sell the property or you would want to continue that, the business would have to leave that location if it was going to continue. **Paul**; can we set a certain time for review at our discretion or does it have a three year cycle? **Krista**; you can set three years, at the three year mark we would send letters to the adjoining property owners asking them if there are any concerns, if they had any concerns, at that mark we would address it at the board with another petition. If no concerns, we would allow the conditional use to continue for 5 more years. But at any time, the surrounding property owners or anyone in the area can call us with concerns and we would address them if it is a legitimate concern. We would ask them to come in. I did have quite a few calls about this petition, Scott Burchett owns the driveway, so that was one concern. Blocking the driveway, multiple cars in and out or multiple cars sitting on the property. Those were just concerns. Everyone felt like that at this point in time what he was doing was very reasonable, no problem. Maintenance of the driveway and delivery trucks and cars blocking the driveway. **Rick**; who maintains that drive? **Brian**; per the easement, it is actually a shared responsibility, I have no problem with maintaining from our property forward, not a problem at all. **Rick**; so addresses 145, 149 and 151 all share that access, correct? **Brian**; yes. **Rick**; what type of deliveries would you have, freight or standard UPS? **Brian**; I had one freight delivery, other than that FedEx, UPS or Postal. **Rick**; what about volume, are we talking 5 jeeps a week, a year? Do you have any projections of what your ideal situation would be? **Brian**; probably no more than a couple cars a day tops. It will vary depending on what the job is, some jobs take 15 hours, some take 2 hours. It varies. Worst case a couple cars a day, probably that is on the top and the average. **Paul**; I think all of us, our goal is that everyone get along harmoniously, while we are certainly not here to criticize your goals on what you are wanting to do but trying to prevent a situation where, I am very familiar with receiving deliveries at my place of business, it is not uncommon for them to go 20 mph through the driveway, as FedEx trucks are flying up that driveway is not something that you are in control of, how fast he drives, but the houses that are on the east side of the driveway, it's a dry summer day and dust is flying. My concern is more that the customer vehicles coming in and out is that you are receiving daily deliveries from multiple parcel delivery services. That adds up to the vehicles in and out. **Brian**; I don't get UPS but maybe weekly or a couple times a week at most. Some of my parts come from local businesses. **Joyce**; you say that some jobs could take 15 hours, will the customer stay there and wait while you work on their vehicle? **Brian**; no. **Joyce**; how many at one time would you have sitting out there? **Brian**; maybe 3 or 4 at the most. **Krista**; Paul, if you remember in the past we have had two different situations recently. We have mandated the max number of cars that can be outside, in disrepair at any given time. We also have restricted hours of operation. Those are things to think about if that is where you are leaning. **Joyce**; and that the parts not be on the ground. **Brian**; I don't have a problem with those types of restrictions. **Paul**; my goal is that you find a way to make this work while maintaining a good relationship with the neighbors and not putting them in a situation where they have are uncomfortable with driveway access or dust. We are trying to find some parameters to put into place to prevent problem. **Brian**; I have no problem working with them through this. **Paul**; what that would look like is us coming up tonight with some parameters that seem reasonable, that gives you some guidelines of someone wanting to bring another vehicle over and you have 4 sitting there already, you pumping the brakes on this and keeping it a little smaller. Just so that everyone has one vision as opposed to you have one idea and the neighbors have a completely different vision. My proposal, **Rick**, is that we set some parameters and take a vote. **Rick**; the only other question I have is visual barriers to the neighbors, looks like some trees there that may be minimal. **Brian**; there is not much that they can see from where their houses will be. **Rick**; there is no privacy fences existing today? **Brian**; no. **Rick**; I would agree **Paul**, I think some very loose parameters at this point, shrink that provision down to 3 years, give an opportunity for him to show his success and willingness to work with the community that he lives in and wants to do this. Will not extend to 5 years so the neighbors have an opportunity. **Paul**; what are your hours of operation and noise? Are you OK with defining something like that? And what would that

look like for you? **Brian**; our normal operation would be 9-5 M-F, rare instances to go outside of that to complete a job. A normal like 9-5 with some excursions would be a good thing. **Rick**; is that 5 days a week? **Brian**; yes. **Rick**; do you ever work on Saturday? **Brian**; (inaudible). **Rick**; I am not one to limit how much a person is willing to work but I do think there needs to be some constraints, I think a 9-7 timeframe sounds like a reasonable place to start. **Paul**; I don't care what you do inside that building but I think that my concern is that the neighbors not hear impact wrenches, air compressors, things like that. Things that are noisy and if they are trying to enjoy a birthday party on a Sunday afternoon that they are not listening to an automotive shop across the driveway. **Brian**; as long as I'm not limited the ability to work on my own vehicles. **Paul**; absolutely not. I think that we all understand that sometimes your neighbor is doing something but it shouldn't be a situation that every Sunday you are working on your own thing, I wouldn't think that you would have to work on your own vehicle every Sunday afternoon. My proposal would be set some type of stipulation, normal working hours, 9-5, the occasional outside noise on the weekends. How many vehicles outside are you ok with? **Brian**; I have one project that is a longer term project, we pull it in and out when we have time to work on it. A non-running would be 3, customer pickup vehicles would be about 3, does that seem reasonable? **Joyce**; so you went from 3 to 6? **Brian**; they would be outside until the customer comes to pick it up. **Rick**; 6 seems a little excessive maybe, if you consider a vehicle in disrepair versus a vehicle pick up, sometimes you cannot control when they get picked up. **Paul**; neighbors, are you ok, do you have an opinion on this? **Scott**; honestly 5-6. Don't block the drive. **Rick**; lets' start with 6. **Paul**; try to be cognizant of delivery drivers in the driveway, don't block the neighbors trying to leave for work or school. Be a good neighbor. **Brian**; by the shop I have a drop location for deliveries so they pull into my drive.

Joyce Brindley made a motion to vote on BZA 2024-4 with the conditions of: 1) a 3-year conditional use 2) work hours 9-5 M-F with occasional limited Saturday hours 3) no more that 6 vehicles outside at any time; **Paul Stone** seconded the motion with all members present voting yes. **Rick**; your variance has been approved. Good luck on your future endeavor.

* **BZA Petition 2024-5 – Trevor & Peggy Cook** is requesting a “**Variance**” from the required 70’ (from the center of the road) front setback to approx. 29’ from the center of the road to add an 8’ x 14’ front porch. The request falls under Decatur County Ordinance 945. The property is currently owned by the petitioners and is located at 4176 S County Rd 20 W, Greensburg in **Marion Township**.

Trevor Cook: we would like to add a front porch to the house. There is already an existing concrete pad there, we would like to cover that. **Paul**; how far does it extend from the front of the house? **Trevor**; 8 feet. **Paul**; is that about the pad is? **Trevor**; the pad is 8 feet, we plan on 7 or 7 ½ foot. We will be adding a sidewalk also. We already have the approval for the garage on the side and will tie them all together. **Scott**; once you put that addition on how far is it from the road, roughly? **Trevor**; 29 feet. **Krista**; that is from center of road, probably 18 feet. **Paul**; so that garage will go as you are facing the front of the house to the left of the photo is that correct? **Trevor**; yes. **Paul**; and I assume that the drive will be moved, currently it looks like vehicles are sitting where the stoop is? **Trevor**; the drive will be right in front of the garage. **Paul**; right now I feel like he vehicles are sitting about where that porch will be but will be moved now toward the left. **Trevor**; yes, farther off the road. **Paul**; and the face of the garage will be the same distance off the road as what the house currently is or will there be an off-set? **Trevor**; there is a one foot offset from the house to the garage, the garage will set back one foot. **Paul**; I think that, obviously, the ideas of these things are new construction as you build the home with plans of adding a porch so you don't get closer and things like that. If we are going from a situation where the vehicles were parked between this 8 foot slab and the house, and trying to get them off to the side, I would like to think if anything that maybe we are improving the situation. **Rick**; I would agree with that Paul, it

sits on a little bit of a curve. **Paul**; the drive where the vehicles are currently sitting, will that no longer be gravel, will it be grass? **Trevor**; it will be grass.

Joyce Brindley made a motion to vote on BZA 2024-5; **Janey Livingston** seconded the motion with all members present voting yes. **Rick**; very good, you can build your porch.

Scott Smith made a motion to adjourn the meeting at 7:20 p.m. with a second from Janey Livingston, all members present signified by saying aye.

Decatur County Board of Zoning Appeal

Secretary, Joyce Brindley

ATTEST:

Rick Hoeing , President, Decatur County Board of Zoning Appeals