

Decatur County Area Plan Commission
December Minutes 2017
1st Floor Meeting Room of Decatur County Courthouse

The regular scheduled meeting for the Decatur County Area Plan Commission was called to order by Jay Hatton at 7:15 p.m. on Wednesday, December 6, 2017. There were 7 board members present. Absent was Andy Scholle and Tom Hunter. Also attending was Melissa Scholl - BZA & APC Attorney, Krista Duvall – Decatur County Area Plan Director, Debbie Martin – Administrative Assistant, Kenny Buening – Decatur County Building Commissioner/Inspector and Kevin Fleetwood – City of Greensburg APC President.

Jay Hatton 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.*

A copy of the meeting agenda and the attendance registrar is attached to these minutes and incorporated by reference. By consensus, the APC Board approved the minutes for the meeting on November 1, 2017 as written and mailed.

* **APC Petition 2017-19 – Robert Keim** is petitioning to “**Rezone**” 2.99 acres out of 8.51 acres from A-1 zoning classification to a A-2 zoning classification for construction of a single family detached dwelling. This request falls under the Decatur County Ordinance **Section 920(7)**. The property is owned by the petitioner and is located at 2085 W CR 750 N, Greensburg, IN, **Adams Township**.

Robert stated that he wishes to build a 2 bedroom/2 bathroom home on the property.

Jay; What is the other building shown on the map? **Robert**; that is a little chicken house that I will get rid of. **Jay**; do you have your own water? **Robert**; yes. **Albert**; do you have a well or will drill a well? **Robert**; we are drilling a well. **Albert**; no Rural Water available? **Robert**; no. **Paul**; how far off the east property line will the structure be? **Robert**; about 50’. **Jay**; there’s good water in that area? **Robert**; yes. **Kenny**; where is your septic field? **Paul**; there is a drawing in the packet. **Jay**; if there are tiles through there you will have to make sure that you put them back in repair so you don’t obstruct water flow. **Joni Fruchnicht**; the property next to that, they do not have water there, it comes clear across the field. We just don’t want them to build there and not be able to get water. That place is still getting water from our place. **Jay**; so from on Moscow Road. **Danny Fruchnicht**; I just don’t want to see someone not be able to have water and run into problems that way, that is my biggest concern. **Ryan Kennelly**; you may want to dig that well first so you have an option of putting in a cistern prior to getting the house completed. **Danny Fruchnicht**; I do know that Tim had trouble getting water and Jamie on the other side of the road had trouble getting water. I just don’t want to see someone putting something in there and then running into a roadblock after they get something built. **Jay**; point taken but he will have to deal with that situation because rural water is not out there.

Albert Armand made a motion to vote on APC 2017-19; Paul Stone seconded the motion with all board members present voting yes. Jay reminded Mr. Keim that he needs to get with Krista because this vote this evening is not the end of his steps in the process.

***APC Petition 2017-20 – Scott & Tammie Phillips** are petitioning to “**Rezone**” 2.99 acres out of 8.935 acres from an A-1 zoning classification to an A-2 zoning classification for construction of a single family detached dwelling. This request falls und the Decatur County Ordinance **Section 920(7)**. The property is owned by Nancy Schroder and is located just East of 6598 W CR 650 N, St. Paul, in **Adams Township**.

Krista stated to the board that some changes have been made due to some information coming to light within the last few days. The home site would be moved closer to US HWY 421 instead of where previously stated in the packets that were mailed out. **Jay**; is it ok to proceed with this since it was advertised? **Missy**; the legal description of the property didn’t change and the surrounding owners did not change. **Krista**; the second thing about this petition is that the soil borings for the septic system as originally noted would need to be changed, but due to the time restraint they were not able to get the soil borings done at the newly proposed house location before tonight, will not be until December 7th. So if we did vote on this it would need to be subject to septic approval. **Missy**; they went through the steps it’s just because of the understanding of the open lagoon the two initial approved sites do not work for the location where the home will be moved to. **Albert**; I have a quick question, on this map that is in our packet we have a residential area, is that correct? **Krista**; that is not accurate, I went back and pulled the original plat of St. Omer. The one on the screen is accurate. **Missy**; they do not sit in a residential zone so they do need the rezone. There were a lot of things pop up that needed to be checked out.

Tammie Phillips stated that they would like to build a 3 bedroom/2 bath home with a pole barn. We have spoken with a well driller and the soil scientist will be back out on Friday, December 7th. **Albert**; have you talked to the soil scientist and do they think you will be good there? **Tammie**; he said really that anywhere on that property we should be able to do what we want with it.

Jay; home location will be flexible enough according to the septic sites that you are not going to have any restrictions to your house there. **Tammie**; that is much bigger than it looks there. **Tammie**; we plan on renting out the back part if someone wants to farm it. **Albert**; I drove up there the other day to see how this land lays, it’s an odd shaped field, hard to get to for crops. I think it’s better than our score sheet says. **Paul**; I don’t know if they have an approved septic site on there, does it need to be a conditional approval, should they choose to get a new location and meets the test. I think when we vote on this I don’t believe that we need to have a condition on it, worse case is that they can pump it if they need to. **Albert**; one of the conditions of coming before the board if that you must have septic and driveway approval. **Jay**; the Phillips stated that they want two new septic sites. **Ryan**; they really only need to get one site approved because they currently have two other backup sites that have been approved, correct? **Missy**; well the only thing is, the second site is supposed to be a preserved site, they will probably want a new site up there because otherwise they will be restricting a lot of their land for future use. **Ryan**; but you can still farm over the second site. **Missy**; you are not supposed to, it has to be a preserved site. **Jay**; also the second site if farther back and if they subdivide that off then they wouldn’t have that second site available. **Albert**; the soil scientist say to rope the site off, do not

travel on it or operate equipment on it, so if they rent it out to farm then they jeopardize that second site. **Tammie**; that's what we were told. **Jay**; I think that you are much better off getting two new sites on your 2.99 area. **Audience-James Nelson**; I live across the road from this property. I'm not opposed to what they are doing but I do have a couple of questions. The pond that is there, from that to the East is Registered Wetlands. You cannot build a septic system within 1000' of that because you cannot contaminate that ground. I agree with them that they do need to move their septic system up farther but also I have heard that the board has already pre-approved a gas pipeline coming from the other side of the highway down the old county road which runs right through the middle of their proposed house and you cannot build within 300' of that gas pipeline. I think the board needs to look into this. **Albert**; I have been here for a while, I'm not aware of a Board approved pipeline. **James**; it is supposed to break ground in the spring of 2024. **Ryan**; they would have to have an easement. **Missy**; it wouldn't be our board approving the pipeline, it would be an acquisition of property, they would have to buy the property. If there is no recorded easement then there is no deal done. **Ryan**; if that is true, the thing that concerns me the most is if this is some registered wetland and I don't know and you truly can't put a septic within 1000'. **Jay**; points to the map and asked if this is what Mr. Nelson was referring to. **James**; that pond, the dam to the east, that area is a registered wetland as I understand it. And any wetlands, you cannot put a septic system within that to keep it from contaminating the ground. **Missy**; the health department approved the site closer to that area but they are now moving away from there. **James**; I have no problem, it was just something that needed to be brought up. **Jay**; did Alan Crosby make any mention of that? **Krista**; no, absolutely none. **Ryan**; Alan would have found it. **Paul**; the Health Department would be the policing committee for that. **James**; the person who bought the adjacent property had to go through all of this and the survey of the property a little over a year ago, that's when all of this information was brought forth, when it was originally split up. **Paul**; I'm just saying that this Board would not be determining anything about the septic system and the proximity to the wetland. **Jay**; as long as we have approval from the health department, that is all we have, we are saying that they have signed off on it. Point taken and noted. **James**; also I would like to note that where their house is, there is a creek that runs north/south on that property line right there. I know it is there because it feeds off of my property. **Jay**; it's an area that stays wet? **James**; yes. **Jay**; and it will be in their property? **James**; yes, right on their property line. If you see the dark spot on the other side of the road, that is the culvert area on my property. **Krista**; both locations are about 150 feet away from that area. **James**; it feeds the pond that is there now.

With no other comments from the floor Jay stated that a motion would be subject to having two certified septic sites falling within the 2.99 acres. Ryan Kennelly made a motion to vote on APC 2017-20 with the stipulations that Jay previously stated; Paul Stone seconded the motion with all members present voting yes.

***APC Petition 2017-21 – Jerome Billman / Billman Trucking Inc.** is petitioning to “Rezone” This 50' x 124' lot (lots 29,30,43 & 44) from a R-2 zoning classification to a B-2 zoning classification, and then combine with the two adjoining B-2 lots in order to build and meet setbacks. This request falls und the Decatur County Ordinance **Section 1125**. The property is owned by the petitioners and is located just North of 1927 S CR 845 E, New Point in **Salt Creek Township**.

Jerome Billman stated that the property that he wants rezoned used to be our old facility. It has water and sewer hookup. It's just a bare lot, graveled and cleaned up. I'm not sure what I am going to build there yet, I just need it rezoned. I have been approached by a couple of individuals to put in possible office for insurance or sandwich shops, etc. I need to get my setbacks off of the highway and side streets so that I can build and do it right. **Jay**; we do have a letter from the New Point Town Council President signed by all members where they recommend and are in favor that we rezone it to B-2. It is a good location and would be an excellent place for New Point to grow. It is also a blessing for Decatur County to have the Wood-Mizer building filled.

Paul Stone made a motion to vote on APC 2017-21; Bill Dieckman seconded the motion with all members present voting yes.

***APC Petition 2017-22 – Leon Boggs / The Sign Exchange** is requesting an Exception to the “no living space” restriction placed by the APC Board on 11/1/17. This request falls und the Decatur County Ordinance **Section 1105(15) & 1145(18)**. The property is owned by Tim Myers and is located at 3242 S US HWY 421, Greensburg in **Marion Township**.

Leon Boggs stated that he would like a reversal of the “no living space” restriction placed on his APC Petition 2017-18, does the no residency completed or just no sub-leasing as rental property but the owner of that property can live there. There is a residence existing currently in the building. **Jay**; read from the minutes of the November meeting where they had the discussion on dropping the living quarters. **Leon**; I remember very vividly, but after the fact what this does is change the overall value, instead of having a building with an optional residence it makes it a really nice pole building. **Albert**; Krista, our ordinance say that in a B-3 zoning that you would normally be able to have an apartment upstairs? **Krista**; yes. **Albert**; so the motion was special to this particular one, if it had not been brought up it would be in an assumption that you could still have the living quarters? **Krista**; as long as it was less than 50% of the overall square footage. **Jay**; so this would be looked at as a business on the square where you have a commercial business downstairs and a living quarters upstairs? **Krista**; similar yes, mixed use. **Albert**; so if that had not been brought up in a B-3 he wouldn't even have had to ask if he could have an apartment upstairs as long as it didn't exceed the 50% of total square footage. **Krista**; that is correct. **Ryan**; because it was brought up how does that change the ordinances? **Jay**; because we put it in the motion. **Albert**; so we can vote to remove it, correct? **Paul**; if we vote to remove it it would basically be cleaner cut because it would fall under the ordinance as opposed to having a special note about it, is that correct? **Krista**; yes. **Missy**; it made it more restrictive than the ordinance. **Paul**; is there anything outside of a sublet agreement, can you essentially have a commercial property with a business in it and then sublet that apartment to anyone you wish. That's kind of a wide open door. **Missy**; it's very common though, it is how a lot of cities and communities, they make the properties able to sustain, because the business downstairs may not draw as much profit. With ADA requirements and have 3 stories, you can't find a lot of businesses that can climb the 3 stories and be successful. So if you don't live there somebody else needs to live there so there is a maximum square footage of the property. Maybe not so much on this property but if you look at like the square, most of the business property is not on the second or third floor. Most of the up and coming and revitalized areas, the business is down below on the lower level and the upper part is residential space. **Paul**; is your intent to sublet this at all? **Leon**; no, my main intent is the value. Eventually we might live there. **Paul**; should we amend it to where basically you can live but not sublet, I can foresee a sticky thing.

Something like this you have an apartment inside of a big box. **Leon**; there is external entrance to the living space. **Tim Myer**; stated that the living space is separate, the upstairs can be locked at the bottom of the stairs. We lived there for 11 years, never had any kind of problems. **Paul**; but the difference is is that you lived there and ran the business. **Jay**; you are not talking about changing the square footage of the apartment upstairs or downstairs? **Leon**; changing nothing. **Jay**; so the only thing we are dealing with is just allowing the residence or rented unit to be occupied in the B-3 zoning. **Leon**; our biggest concern is the value. **Jay**; so will we make a new motion with allowance of a living quarters in this B-3 or how would that be stated? **Missy**; basically you are just removing the restriction so that it can function just as the B-3 zoning requires.

Albert Armand made a motion to vote on APC 2017-22, removing the restriction that was place on this on the APC 2017-18 at the November 1, 2017 meeting; Ryan Kennelly seconded the motion with all members present voting yes.

With no other business before the board the meeting was adjourned at 7:58 p.m.

ATTEST

Secretary, Andy Scholle
Decatur County Area Plan Commission

President, Jay Hatton
Decatur County Area Plan Commission