

**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 6:32 p.m. on Wednesday, January 3, 2018, at the Decatur County Courthouse. The meeting was called to order by Paul Stone. All board members present. Also attending the meeting was Krista Duvall – Decatur County Area Plan Director, Debbie Martin – Administrative Assistant, Melissa Scholl, Attorney for the BZA and APC boards and Kenny Buening – Building Commissioner/Inspector.

Vice 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 December 3, 2017 regularly scheduled BZA monthly meeting was approved as mailed.

Melissa Scholl swore in the audience.

\* **BZA Petition 2018-1 – Stanley & Catherine Nolting** is requesting a “**Variance**” to the required rear setback of 30’ to 13’ for construction of a pole barn. This request falls under Decatur County Ordinance **#945(5)** The property is owned by the petitioner and is located at 6879 W CR 500 S, Greensburg, in **Jackson Township**.

Stan stated that he wants to remove the existing building on the property and build a new pole barn right over the top of same foundation. Several reasons why is there is a lot of trees there, my well is in there and I want to protect the well, which makes me limited on where I can put this because I have a creek running through it, a pond and the topography limits me as well.

**Paul**; the property owner to the south is Mr. Sebastian, have you had any discussion with him at all, any concerns raised? **Stan**; no. **Roger**; the size of your lot is not stated, what is the size? **Stan**; it’s 3.16. **Roger**; currently the building sits how far off the property line? **Stan**; one corner is 14’ to fence, the other corner is 13’6” to the fence. I think the property line is actually on the other side of that fence. **Paul**; so you feel like you are not getting closer to the property line as the original structure is, is that correct? **Stan**; I will get probably about a foot closer, what I want to do is put post on the outside of the existing pad and float the new concrete over the old. **Roger**; so you don’t know exactly where the property line is? **Stan**; no we don’t. **Roger**; so you are assuming the fence is the property line. **Stan**; that is what I am doing, yes. **Paul**; the size of the old structure vs. the new structure will be about how similar? **Stan**; the new one will be a little bit bigger. The old is 24’ x 46’, the new will be 40’ x 54’. **Roger**; will the majority of the size be going toward the rear of the property? **Stan**; it will go towards the front, not the rear. **Roger**; but you will still take an extra foot on the backside? **Stan**; the post will sit on the outside of the existing concrete. **Roger**; the current structure sits how far from the rear property line? **Stan**; 13’ – 14’. **Paul**; what is the proximity of the well to the fence? **Stan**; I’ thinking it’s about

19'-20'. What I was concerned about moving it over is the well would almost be right in the wall. **Roger**; what is the purpose of the building? **Stan**; storage for 33' RV, work area, an 18' trailer. **Roger**; your drainage off of the larger building will still go towards the pond? **Stan**; yes. **Janey**; what is the location of the pond? **Stan**; on the bottom. **Roger**; will the access to the building be the same as it is now? **Stan**; yes. **Joyce**; will there be anyone living in the building? **Stan**; no. **Roger**; not septic or bathroom planned? **Stan**; not at the present, I may go ahead and have them put things in to get it ready if somewhere in the future I need. **Roger**; you don't have anywhere to put a leach bed. **Stan**; that's what I am concerned about, if there was enough room for a septic system. **Roger**; the way it looks and the way it stands, there is no room. **Janey**; if we aren't sure where the property line is, and he builds at 12.5'-13', if down the road and this neighbor sells and they find out he encroached on their property, what is the poor man to do at that point? **Roger**; that's the problem with a lot of this, you don't know where your boundaries are, then when you start to build how do you know how far you are away from the property line. You really need to get an establishment of that property line to be able to know where you will put the building. **Krista**; lots were laid out, no meets and bounds, it was just all general. **Roger**; have you had your property surveyed? **Catherine**; not until we built on it, which was 25 years ago. **Missy**; if they do have that surveyed they can just have it pinned. She indicated that it was surveyed 25 years ago, if they just came in and had the corners pinned they would know. **Roger**; but you didn't have it surveyed when you built the house did you? **Catherine**; I don't think so, that property behind us was originally part of the property that we bought it. **Roger**; so no one has ever put any indication as to whose property line is where? **Catherine**; I don't know, probably when they sold that way over 30 years ago they may have done something. **Roger**; do you have a deed that states that? **Krista**; the deed does have meets and bounds on it, it is real close to a section corner so I can run the calls and find a real good indication of where that line is. **Roger**; I think that it is in your best interest because when you are going to be building a permanent structure like that you don't want to encroach on anyone. **Paul**; the situation as it stands, it's probably not a problem but when a new buying comes in an buys that parcel and walks up to your door and says that your building is on their property, then it could be a problem. **Paul**; could we do an approval that the property line is not closer than the fence? **Roger**; that is what we would have to do. **Krista**; I will verify the property line. **Missy**; you could just actually make it that it is only 13' from the property line. **Roger**; if the property line is a foot closer than the fence line can you move a foot closer to the north? **Stan**; yes. **Krista**, what were you going to check? **Krista**; I will pull the deed and locate pins, measure to the fence and see how far your property is to that fence. I will have to run the calls and check. It will take a little while to do it. **Missy**; when Krista looks at it and she does not have enough information then the burden will be on Stanley to establish that line. **Roger**; I think it is in your best interest to do the line survey so in case something happens in the future you will know.

Roger Krzyzanowski made a motion to vote on BZA 2018-1 under the contingency that the property line is established and that the building is no closer than 13' from the established property line; Joyce Brindley seconded the motion with all members present voting yes.

**Paul**; you are good to go, if Krista is unable to establish a good dimension then you will need to get a surveyor involved and have them establish the line and if it falls within 13' or larger then you are good to proceed.

\* **BZA Petition 2018-2 – Scott Richards** is requesting a “**Conditional Use**” as provided in the Decatur County Ordinance #935(2) to prepare automobiles for resale in an unattached structure on the property. The property is owned by the petitioner and is located at 5340 S CR 60 SW, Greensburg in **Marion Township**.

Scott stated that he want to buy cars wholesale, will detail them at him home in my garage, no mechanical work. Would like to park one out front from time to time if allowed.

**Roger**; you are not just preparing these vehicles but you will actually sell them yourself? **Scott**; for myself. What type of vehicles are you talking about? **Scott**; newer models, no more than \$15000 but no less than \$5000. **Janey**; where would they sit after you got them done? **Scott**; a couple in front of the garage and behind the garage. I was going to build a privacy fence around the back, I don't want to have any more than \$50,000 in inventory. **Roger**; you are not just detailing them, you are talking about doing mechanical work but you are not a mechanic. **Scott**; I am a mechanic. **Roger**; so you will both do body repair work too? **Scott**; no, detailing, cleaning. Get them ready to go back to a sell. Buy and sell at auctions. **Roger**; what is the number that you will have at one time? **Scott**; no more than 5-6 total on my property. **Roger**; is there anyone else in the neighborhood who does this and leaves them parked outside and resells them? **Scott**; there was a guy that lived across from me who did one car once in a while. **Janey**; wouldn't you have to have a license to do that? **Scott**; yes, that is why I am here, to get my wholesale license I have to have proper zoning and that you agree that I can do this at my location. **Janey**; so you are going to submit for a license? **Scott**; yes, but wholesale, not a car lot. **Roger**; where will you acquire the vehicles from? **Scott**; auctions, I will buy at auctions and then either resale at other auctions or to individuals online. **Janey**; so you wouldn't have any signage? **Scott**; no. **Joyce**; have you spoken to the neighbors. **Scott**; I spoke with a couple. One who owns all around me has no problems with it. **Joyce**; the Sweeney's would be the ones that would get to see all of this, I think they need to know what's going on too. **Scott**; I'm not aware of who the Sweeney's are. **Krista**; all adjoining neighbors received certified letters, so they are aware of what he is petitioning to do. **Roger**; how fast is the turnover? **Scott**; within 1-2 weeks maximum, unless I cannot sell it. **Roger**; when you take them to the auction, you put a reserve on what you are going to expect? **Scott**; yes. **Paul**; do we have an ordinance about the number of unlicensed vehicles on a parcel? **Missy**; I think if it doesn't go with a business classification, it gets into salvage and things like that. **Scott**; I don't want anything to do with that. **Missy**; if they are inoperable, not necessarily unlicensed, what he is indicating they would be operable and titled in his name. **Paul**; I don't have discomfort about you doing things like this, my concern is the vehicles for sale setting out front. And if that is going to be a very small part of your business model I would like to see a privacy fence up that you would do your work behind. If it is not a business and there are things for sale sitting outside, it falls in an odd situation there. The retail but not necessarily a signed business is where I have the discomfort at I guess. **Roger**; you will be changing oils, removing fluids from vehicles. **Scott**; not at all, I just want to detail. **Roger**; will you be doing oil changes? **Scott**; if it needs it, but I don't want to buy anything that I will have to work on. **Roger**; you buy 3-4 cars and they need oil changes, what will you do with the waste material? **Scott**; I have a friend who is employed with me at the moment. His father has an oil burning furnace, we give him my motor oil from my cars. **Janey**; how many autos will this building hold? **Scott**; the building if emptied will hold about 5, I won't be able to work on that many in there. **Janey**; where are you putting the privacy fence? **Scott**;

behind the garage. **Janey**; if the privacy fence is there who does that block the view from? **Scott**; my neighbors to the south and north of the house. There is a tree line next to me that would block most of the view from that residence. **Missy**; you said that you take your oil to the father of your current employee, is that in this type of business or a different business? **Scott**; he owns a transmission business and he was who I was working for up until I went on my own and they burn the oil for heat. **Missy**; so you are already doing this business? **Scott**; I'm not doing the business yet because I don't have the license. I'm getting my garage ready to do this. We are waiting for zoning approval to get my dealers license. **Missy**; and then will this gentleman be working for you? **Scott**; the gentleman who owns the business who I used to work for will not be, his son will be. **Missy**; but you will be having an employee? **Scott**; I will have one employee. **Missy**; typically our conditional uses are only for the family. **Joyce**; in other words you are just flipping cars? **Scott**; yes. **Joyce**; how long are you typically holding onto them before you get rid of it? **Scott**; I don't want to hold more than 2 weeks, there could be a time when they are not bidding, I won't purchase more cars until I get rid of what I have. **Roger**; if you are going to have a second employee then you are planning on doing quite a few vehicles, or buying several to keep somebody on payroll. **Scott**; 5-6 is the most I will own. He is a very good detailer, good with people. He is a very business oriented guy, lives in Kentucky and drives to my house to help me. He's more of a brother and a friend, not blood related but very good friends. **Roger**; based on that comment if you are going to have a second employee it does have to be a relative to get a conditional use. **Scott**; if I give him a 1099 at the end of the year is that still considered an employee? **Missy**; the employee needs to be a resident of the property, not just a relative. A family member is the terminology. A husband/wife, father/son. This was just designed for a business on the property of the people who reside there with the idea that sometimes it takes that to start the business before you move to another location. **Scott**; that is what I would like to do. **Missy**; it happens with a lot of the hair cutting salons. **Scott**; I have spoken with an individual to purchase a piece of property but I wanted to be sure that this would take off before I make the big investment as there is no building on the property. **Roger**; in order for you to have an employee there it has to be a resident or a member that lives at that property. **Scott**; so I can't have the employee? **Roger**; that is correct. **Scott**; is a 1099 an employee? **Roger**; yes. **Paul**; basically an employee situation is someone that is showing up there every day to go to work. **Paul**; somewhere you have to draw the line about where a business is on a piece of property where you live versus in a business district where there are other businesses. The line is drawn about where someone shows up to go to work there, it's no longer your home, it becomes something outside of an additional use. **Scott**; there are other businesses in that area that have employees. Just 5 miles away from me is Bausback's and they have many employees and his home is right there, so if I can do it I would appreciate it. If you say no, I understand. **Joyce**; I appreciate that you were trying to start a business but when the law is like this, we have to follow it. We are not trying to stop you, you will need to figure out a different way to do it. **Paul**; I would make a recommendation of somewhere that you could rent, maybe a few phone calls could lead to a place where you could rent a bay to detail cars and then if it starts to work then you can move forward. **Missy**; do we still need to take a vote? **Missy**; it's up to him, if he wants us to vote on it, then it would be subject to the condition that it would not have any employees. **Scott**; I have to have somebody, I can't do it all. **Roger**; those are the conditions that we have under the "conditional use" ordinance. **Scott**; I understand. **Joyce**; I would recommend that you probably try to find a place to rent until you can iron out what you really want to do with it. **Missy**; an option that you would have is to ask us to table this, you can do more research on your options and then come back. **Scott**; that's ok. **Roger**; when we vote and we say no, then you would not be able to have the business there but if you want to check into it

further. **Scott**; it will probably come down to selling my property, if I can't do it there then I will need to do it somewhere else. **Paul**; would you like for us to vote on this? **Scott**; no, you are good. Thank you very much for your time.

With no other business to be brought before the board the meeting was adjourned at 7:10 p.m.

Decatur County Board of Zoning Appeal

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Secretary, Joyce Brindley

Decatur County Area Plan Commission

ATTEST:

Paul Stone

Decatur County Board of Zoning Appeals