

**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, July 6, 2022 at the Decatur County Courthouse. The meeting was called to order by Brad Schutte. 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.

Brad Schutte 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: June 1, 2022;** Joyce Brindley made a motion to accept as mailed; Janey Livingston seconded the motion with all presenting voting yes.

**\* BZA Petition 2022-1 – Kurt Comer for Nutrien** is requesting a “**Variance**” in an I-1 zoning classification from the provisions of the Decatur County Zoning Ordinance #1244 & 1210; a) side setback from the required 60’ to 15’ b) rear setback from the required 60’ to 38’ c) nearest residence from the required 600’ to approx. 275’. The property is currently owned by Nutrien Ag and is located at 531 S County Rd 350 W, Greensburg in **Washington Township**.

**Curt Comer:** They are building a new office building close by the scale, due to the neighbor not wanting the big building that close to her property, we are changing our 15’ request to a 35’ side setback. We changed the setback request to 295’ from 275’ from the nearest residence. **Brad;** to clarify, where you are showing the new shop building is now a new piece of property. **Krista;** they are going to purchase 7 acres from Joan Koors. **Brad;** basically you are just working off of the existing infrastructure, really nothing changes driveway wise. **Krista;** we do want to make a note that the variance from the nearest residence of 600’ to.... **Curt;** the first building was going to be 275’, we increased it to 295’. **Brad;** we just want the 295’. **Krista;** the rear setback is not needed. **Curt;** once they rezone the whole thing the other building will be fine on the setbacks. **Krista;** we still need a side setback of 60’ to 30’, is that correct? **Curt;** 35’.

Joyce Brindley made a motion to vote on BZA 2022-1 with the Side setback to 35’, Rear setback removed and the nearest from a residence to an I zone from 600’ to approx. 295’; Gary Fischer seconded the motion with all members present voting yes. **Brad;** your exception has passed and we will look for you next month.

**\* BZA Petition 2022-7 – Open Road Renewable LLC / Ice Miller LLP – is** requesting a “**Special Exception**” in an A-1 zoning classification for construction of a Battery Energy Storage System facility. The property is currently owned by Robert & Elaine Vollmer and is located West of 2080 W CR 400 N, Greensburg in **Adams Township**.

**Tim Ochs, Attorney for Ice Miller of Indianapolis:** We are here to present our request for a special exception for a Battery Energy Storage System (BESS) which is a suspected granted use for most people, we are happy to present this to you and explain exactly what it is and why we need that. To do that I am going to introduce Cyrus Tashakkori, he is the President of Open Road Renewables and he will walk you through a slide presentation that is on the screen, and you should

also have the handout. **Cyrus:** thank you very much. We are Open Road Renewables, (inaudible) is also joining me. The two of us are in charge of developing battery storage products in Indiana including this project, BESS, Fletcher Power would store electricity in these batteries. These are the same type of batteries as laptops, cell phones and electric cars to facilitate the operation of the electric grid. These are safe systems, they have been in use for over a decade, they have an advanced monitoring features and we provide robust training to local first responders and operators and pose no risks to groundwater. I will talk a little bit about that. This facility is part of the modernization of the electric grid helping maximize use of existing transmission infrastructure and to more efficiently meet demand for grid capacity & reliability. I want to talk about a couple of things first, the tax revenue that the local project would present. Fletcher Power would require an estimated capital investment of ~\$130 million in Decatur County. This represents a significant and long-term increase in the local tax base without the need for expanded services (sewer, water, etc.), and without significant impacts such as traffic, viewshed, sound, new emissions, etc. Under proposed tax abatement terms, Fletcher would pay ~\$9.5 million in local tax revenue in its first 20 years of operations. A little context on why we are here, these are headlines from the last month in Indiana and they really put a finger on the dynamic that it is real and not just unique to Indiana but is happening nationwide, particularly in the center of the country as temperature increases and storm activity increases. [*“Indiana may experience rolling blackouts this summer. What are they? How can you prepare?”* The Herald Times – June 7, 2022, *“Hot summer could lead to rolling blackouts in Indiana”* Fox59 – June 7, 2022, *“How rolling blackouts could affect Louisville and Indiana amid heat wave”* – Louisville Courier Journal – June 16, 2022]. This dynamic of capacity shortage, capacity is actually a technical term and is basically what the utilities locally and throughout the region, just to help regulate the grid, help make the grid more reliable and more stable. There is a market for the service that is an annual market. The bar graph shows that in the last year the market increases 4600%. That is going straight into the pocketbooks of your constituents and other folks in Indiana and around Indiana. At the grid operator MISO, the Executive Director of Market Operations: capacity shortfalls in the central region of MISO (which includes Indiana) leaves that area “at increased risk of temporary, controlled outages to preserve the integrity of the bulk electric system”. In May 2022 in Texas, a heat spell resulted in 6 natural gas plants failing which resulted in huge price increases and calls to turn up thermostats to avoid blackouts. In addition to the tax revenue, there are other benefits to improving the grid reliability from this project. The technology has been around for over a decade, that the utility scale, the cost has gone way down and slide 6 shows you. Every utility in Indiana has request for proposal for this type of facility. Duke, Nisco, etc. and the third largest coop in Indiana is putting this at every one of their substations. This kind of represents an opportunity for Decatur County to, rather than send money to other counties or out of state, the bids would keep that money here and for the benefit of Decatur County.

**Fletcher Power would occupy** ~15 acres located within a 65-acre tract at the intersection of W County Road 400 N and N County Road 250 W directly adjacent to the existing Hoosier Energy Decatur County electric substation, from which it will charge and discharge electricity. The project site is set back from the perimeter of the parcel and over 500 feet from the nearest residential dwellings. Added vegetative screening will obscure the facility from roads and adjacent parcels. The parcel has been actively disturbed for decades, has been fully studied for wetlands and wildlife resources and presents no issues. Project has been discussed with three closest landowners (to the east and west) to identify and response to concerns. Facility will be comprised of groups of metal containers typically ~10’ in height. Project significantly set back from nearest residences within the setbacks will be planted vegetative screening. Primarily empty space with about 10% of ground cover. No emissions, no noise – minimal impact at project fence line (primarily HVAC systems). Inaudible over background noise at property line. No traffic – minimal after installation, which will take 6 to 12 months no odor, dust or vibration. Decommissioning – Permitting conditions require bonded project decommissioned obligation at end of useful life. Enclosures and power conversion

system will be removed and much of it repurposed/recycled, and the site returned to its original state.

## **CONDITIONS:**

**EMS Training & Access** – Fletcher will conduct annual training of w/local EMS for life of Project at Project’s expense. EMS will have coded/keyed access to facility. Latest Regulations & Standards – Fletcher Power will comply with the latest version of NFPA 855 or any more recent version of Indiana standards. Emergency Management Plan – Fletcher will produce a site-specific EMP, will train EMS on the EMP, and will provide copies to the county, EMS, and a copy on site. 24/7 Monitoring – Facility to include 24/7 continuous monitoring system. Water Tanks – Installation of 20,000-gallon water tanks for use by EMS. Knox Box – Knox Box at entrance to allow for EMS access to site. Driveways and internal roads to be to IBC code with turning radii for EMS vehicles. We’ve talked with the community about this project and a lot of these are actually the product of those conversations.

**Health & Safety** – Facility will benefit from continuous improvement in technology, design, and safety standards in BESS over the last 10+ years. State of the Art National Standards – Project will comply with the latest NFPA 855 (Standard for the Installation of Stationary Energy Storage Systems) as well as numerous other national and state standards and regulations. EMS Training, Access, & Resources – Permitting conditions include annual training of w/local EMS for life of Project at Project’s expense. EMS will have coded/keyed access to facility and access to onsite water supply. Monitoring – Facility includes hundreds of sensors and numerous cameras and is monitored remotely 24/7. Stormwater – Project will obtain stormwater management permit including Stormwater Pollution Prevention Plan. The facility produces no emissions or wastewater and presents no opportunities for spills or leaks that could contaminate stormwater or groundwater.

**Fletcher Base-Case Development Schedule** – Preliminary Due Diligence (Q2 2019), MISO Queue Application (Q3 2019), Detailed Ground Surveys & Site Plan Design (Q4 2021), Begin Local Outreach & Consultation Based on Surveys & Site Plan (Q4 2021), Local Land Use Approval (With Conditions) – (Est. Q2 2022), Execute & Securitize MISO GIA (Est. Q2 2022), Finalize State Agency Approvals (ex. DNR, storm water plan, etc.) (Est. Q3 2023), IURC Application & Approval (based on final design. This step may be undertaken by long-term utility owner like NIPSCP/Duke vs. Open Road) (Est. by Q1 2024, Local Building Permit Application (Est. Q2 2024, Construction Start (Est. Q3 2024, Operations Start (Est. Q32025).

**Contact Information:** Feel free to reach out if you have any questions.

Timothy Ochs, Ice Miller – [Timothy.Ochs@icemiller.com](mailto:Timothy.Ochs@icemiller.com) (317) 695-8386 (cell)

Mark Alson, Ice Miller – [Mark.Alson@icemiller.com](mailto:Mark.Alson@icemiller.com) (317) 374-8527 (cell)

Cyrus Tashakkori, Fletcher Power – [cyrus@openroadrenewables.com](mailto:cyrus@openroadrenewables.com) (512) 921-8643 (cell)

David Savage, Fletcher Power – [david@openroadrenewables.com](mailto:david@openroadrenewables.com) (512) 736-6137 (cell)

Tim Ochs: The only thing that I would add to Cyrus’s presentation is he referenced the commitments. They are in writing and you have been provided a copy, if this is approved and the project moves forward, Open Road will obtain ownership title to the real estate and the commitments will be placed on record against the title to the real estate and will be enforceable against whoever owns the property, on a going forward basis. Cyrus went through a quite a bit of material and we would be happy to answer any questions that the board might have.

**Brad;** my first question is what type of battery are you using? Are they lithium, what is the chemical make up of the batteries? **Cyrus;** these projects will be using a form of lithium-ion

battery called Lithium Iron Phosphate, which is a trend in the industry for this particular chemistry, which can tolerate a lot higher heat than what's, for example in your cell phone and is thus a much safer battery. **Janey;** how long do those batteries last? **Cyrus;** the containers have kind of like a server hard drive, each of those are expected to last upwards of 12-15 years but the facility itself, the batteries can be removed and replaced as part of normal operations. So you can think of the facility as kind of a permanent (inaudible) to the grid, over time we would expect the batteries are going to get more efficient, especially on decades so the footprint of the facility can change over time but the individual batteries have a lifespan of 10-15. **Tim;** they just slide out and would be disposed of in accordance with applicable law, not at the site. **Joyce;** are you going to provide this service to everybody or is this just for Decatur County? **Cyrus;** to be clear, the benefits that I was referencing, the tax revenue obviously goes to Decatur County, the benefits with regard to the reliability of the grid is not isolated to Decatur County, it's something that Decatur County is part of a large interstate grid but the closer you are to this type of facility, the less likely that some overload or rolling black out is going to affect you, so in that sense there is a huge benefit to the county, but then again, this is part of a big interstate grid. It's not like the benefits will just stay here. **Janey;** how long is the construction time expected to be? **Cyrus;** the actually construction time is fast, but it depends on the stormwater civil work, we might start planting the trees ahead of all of the other work, independent from what we are doing, right next door to Hoosier Energy we will have a little bit of work on the sub-station with that being is about a 9-month process. In the application we have described as a 9-18-month process, but realistically it will be somewhere in the 9-month range. **Brad;** why are you looking for the entire property instead of just the 15 acres? **Cyrus;** it was just the nature of the landowner's interest, we are relatively flexible if the landowner wants to talk to us about 15 acres, we are happy to do that. In this particular case that was the landowner's call. **Brad;** I'm just talking as far as the special exception goes, not necessarily the purchase of the entire parcel. **Tim;** certainly we can limit it to the 15 acres if that is a concern. **Rick;** so the power is going to be fed from this system to the sub-station, do you utilize these types of battery power systems in any other renewable sources, solar and wind particularly? **Cyrus;** we as a company do not, it is a common trend that these be integrated into solar and wind projects but this kind of stand-alone battery project is distinct from solar in that, for example if Duke of Hoosier were to own this facility, they would operate it similar to like a peaking gas plant and it would be independent on where the electrons are coming from, whether from pole or from solar, is kind of independent of that. **Tim;** if this were a solar project, we would need 100 times more acreage to be able to distribute the same amount of electricity that could be stored. **Janey;** so there is no plan to have solar added to it? **Tim;** no. **Cyrus;** no plan, you can go on MISO's website and see the applications, which represent who is trying to interconnect over the next 5 or 7 years to the grid. There is no solar associated with this project and we are not developing any solar in Indiana. This is a true stand-alone battery storage project and we don't even have plans to expand it. **Tim;** to clarify, MISO, simple put is the electric grid police and regulatory body for Indiana and a large portion of the Midwest. You cannot, with any project, connect to the grid without getting their approval. It takes anywhere from 5-7 years from the initial application to a point where we are being able to operate. MISO, their cue is public and you can go look at that. There is nothing associated with this property other than what is being presented to you tonight. **Janey;** I like that we are training EMS, but I need to understand what the need is for this training. **Cyrus;** unlike others forms or aspects of the grid, planning for worse case scenario whether it is a battery storage project like this or the lack of, on your desk the lithium-ion batteries have in the past caught on fire of overheated, even though it is extremely rare and most of those fires are building base applications where the building itself caught on fire, we are not dealing with that here. Regardless, there is a lot of design and standards around keeping these types of facilities safe and part of that safety, one of the key components is to make sure that the EMS community knows that it is there and how to deal with it if there is a fire or an issue. It is not a reflection of the likelihood of an event, it is a reflection of the best practice to be ready if there ever were such an event. **Janey;** has there been an

event like that at a facility? **Cyrus**; there have been events at facilities, but for example, the largest facility known in Indiana is at Indiana Power and Light Facility in Indianapolis, it has been there since 2016 and has had no issues, the vast majority of these facilities do not have issues, but when there are issues, the entire industry swarms on it to understand what happens and (inaudible) standard that we are committing to is, 2020 is the last standard, 2023 is the standard that we will be committing to. It has integrated with lessons learned in just the last few years. We have fully engaged with the local EMA Community so they fully understand the cases where this has happened, what happened when there were fires, what are the issues, are there emissions, leaks, what are the things that they would need to feel comfortable. **Janey**; it almost looks like metal housings? **Tim**; they are small like that, so they are short. **Janey**; I'm trying to figure out what it burns. **Tim**; very little, the batteries themselves can. This would be 130-million-dollar investment, people are not going to spend that kind of money on something that is likely to burn. The fact that people are building and investing that much money is a reflection of the confidence that nothing like this was going to happen. As Cyrus indicated, you prepare for the worst. We approach this like the fire department does, they train, they want to be prepared for everything and then you hope that nothing happens. It's the same approach we are taking here, based on our meetings with EMA in Decatur County. If you look at commitment 3, that whole section goes through in detail what is required, submitted and updated annually. That's that approach, the fireman's approach, to prepare for the worst so you are ready for everything. That's what you need to do, we wholly expect that nothing is ever going to happen, ever. When you know what to do then that's the best approach you can take and that's what we want. Two other things, 1) there is a reason why these, if you look at it its almost like a checkerboard pattern, there is a block of batteries and basically it is almost like a storage bin that you see on trains or trucks, about that size, you enter one side, pull the batteries out and you exit. If one of those should, for whatever bizarre reason should catch fire, what the emergency response unit will be trained to do is let it burn. That is because it will be limited to that single unit. We will lose that before anybody gets hurt, period. That's never going to happen, and the only thing that needs to be done, and the reason why there is 20,000 gallons of water on site, if one does catch fire, you spray down the ones close to it, occasionally, it doesn't have to be constantly, and it keeps those from catching fire, let it burn out. The emissions that come from one that burns is the same thing in terms of emissions you get if a single-family home caught fire and burnt down. It is safe but you prepare for the worst because that is the smart thing to do. **Gary**; on the battery replacement, if they wear themselves out in 10 years or technology times them out in 5 years, do we see a possibility of a reconstruction? **Cyrus**; if that were ever necessary down the road it would require an application or an amendment to the permit, would require an approval. What we are describing here not some continuous or repeat construction. It is construction of the facility and then the replacements of the batteries as a modular unit being a function of the maintenance of the facility and not involving the level of construction that we are talking about. **Rick**; as you pull these failed batteries out, you talk about a disposal plan, do you have details on what that disposal plan is, are they recycled, are they put in the local landfill, where will these failed batteries end up? **Cyrus**; there is a whole second life to these batteries, they are very valuable even after the life, in this application, are exhausted. Something like 90% recyclability in the whole industry on refurbishing and reusing the batteries. As far as this site is concerned, the thing to understand is a used battery go into a sealed bin and are periodically removed from the site. They do not go into the landfill; they go to a recycling facility. **Rick**; the 20,000-gallon water tank, is that illustrated on your diagram? **Cyrus**; no, it was something that we agreed to in a condition after the fact. It specifies that the EMS community would, it would be in a design and location that is to the satisfaction of the local EMS community. **Tim**; if you look at commitment #7 it reads as part of the facility shall install, fill and maintain a watering system totaling not less than 20,000 gallons to use by local firefighters. The location and design of the tank shall be approved by the Decatur County Emergency Response prior to its installation. **Brad**; some clarification to all of that Rick, this was reviewed by the Technical Review Committee who consisted of ... **Krista**; EMS – Brad Spear,

David from Adams Township FD, Tim Ortman, Danny Peters, Jerome Buening, Bryan Robbins -EDC, Dorene Greiwe and Rhonda Heger. Greensburg, Adams and St. Paul Fire also. **Brad;** so that is where the commitments were developed. **Gary;** so I guess that answers a question that I had, that the 20,000 gallons is a stop gap measure until fire can show up if we need to pump more. **Brad;** that is actually not a stop gap measure, nothing will happen with that until the fire shows up. They will haul more. **Krista;** we were concerned that we would not have enough water to have a continuous stream on the surrounding batteries for days on end while this one burns out so they agreed to the 20,000-gallon tank on site. **Janey;** so is that to say that the fire departments did not have issues with it? **Tim;** I think it would be brave enough to speak for them but this is kind of the impression that I got, I think there was a healthy amount of concern and skepticism from all the fire departments, especially the head of the EMA and so we took two hours to go through everything and I think by the end of the two hours that all the fire departments reps that were there were satisfied.

**Audience: After public comments Open Road will answer all questions then.**

**Roger Finley;** who manufactures these batteries and where are they manufactured? **Brent Muckerheide;** I am one of three people who live behind the sub-station or by it. I'm not here to be an obstructionist. They have reached out very professionally to me and the other landowners, I appreciate that. We don't have an arm to ensure the safety, I hear that the fire might take two hours. We are the only one who have kids by it, I'm pretty sure probably none of them do. I understand, I'm a business man, I understand how it goes. I'm looking for what can we do, I appreciate your question about the parcel and why they are asking for the whole 66 instead of just 15, those are things where there was a two-hour meeting where all of this was developed, none of us were ever included in it. We have had a couple of texts with them, they have been very professional, I get why. I'm looking for this board to help us protect our investment. It's 130 million dollars, that substation out there has already cost me probably \$70,000 in (inaudible) value. What's this going to do to everyone on that road. Not everyone is on that road but we are and our families are. What can we do through you guys to help protect our investment and our families? What needs to go on to protect the rural area, which is why we love Greensburg. The substation came out in front of us, we didn't get asked really about the landscaping around it. Not from anybody on this committee, not from anybody in town, not from Hoosier Energy, it gets thrown us and gets 2' shrubs put around it. I think the residents of our county are worth a lot more than that. Why we are willing to work with companies like this to help our county in the areas that is needs help in, somebody has to look out and put some long-term provisions into what they can do to help us. Again, I'm not being here to stand in the way or any of that. Hoosier Energy has been a good neighbor but I think the way these things go about, the residence around the area needs more voice. I don't know how that is done other than the people sitting on this board. **Joyce;** do you have any suggestions on what we can do to make this better? **Brent;** I think questioning why we are going 66 acres instead of 15 is a good start, questioning the safety, when I hear a question of how the fire department received it but the lawyer had to answer it, it concerns me. I'm not saying you did anything wrong, it's just the perception of that is not easy to stomach. So looking for what other safety, is it going to be landscaped with a berm around it, or is it going to be cheaply done like the one that sits in front of me now. I know you have a lot on your plate and not everybody can be happy but it is affecting residential values, which is why everyone loves Greensburg. It's a rural community that we have built and we raise our families in and we don't ever get to be hardly a part of these discussions. I do commend Cyrus and the company in the communications that they have had, they have been professional. I know why they have to keep it short and they don't involve us until two days before a meeting is going on. I get all that, but what can you do for us? 1) safety 2) the look preserving our residential value and 3) a long-term expansion and making it worse. What provisions can be

done to protect our community. I appreciate the board taking the time, I think you have asked a lot of good questions, I appreciate Open Road and it's almost a commitment that they talked (inaudible). **Mark Mohr**; my only question would be is this company planning on bonding the roads or having some type of interlocal agreement with the road during construction. I know the County, I actually work for the County Highway Department, has been down these roads before where companies come in to build infrastructure, tear up the roads and we are left to do the repairs. I live close, travel daily almost and I think it is something that should be taken care of and looked at before we go too far.

**Tim Ochs**; Cyrus can answer several of these. We have actually submitted to the county, a proposed road use agreement and pursuant to those agreements prior to the commencement on construction the county would designate the specific route for any construction equipment to get to the site. Then that route would be videoed so we know exactly the condition of the roads before construction starts. Then when construction is over if the roads have been damaged at all we are responsible for restoring the roads to as good or better condition that existed before construction started. We anticipate fulfilling and reaching that agreement that would be signed. With respect to the size of the project, we are more than happy to limit the special exception to limit to just the acres on the site plan. There is and has never been any intent to expand this project beyond the roughly 15 acres. We are happy to make sure that that happens and any condition with approval, should that occur, we would welcome it being limited to just that acreage. **Cyrus**; the 15 acres was an oversight, I didn't realize that our application gave us the right to do anything beyond the 15 acres. Slide #2 shows the profile of the facilities, this is a lower profile that a single-family house or a barn. I feel for the neighbor there to have a big sub station right in front of his house. Some of those structures are loud and are 40-50 feet tall. This on the other hand, the setbacks on the screening are extremely effective at having no visual impact. Referring to the slide of the layout of the project. Between the residence and our landscaping is 500 feet, again the landscaping is going to be more effective than anything that was even possible on the sub-station. I am committed to the neighbors that if they have any requests in terms of even putting landscaping on their side of the property line, we are open to that. If the gentleman who spoke would reach out, we are happy to invest on their side of the property line planting trees so that in addition to what we are doing on our side, that that is addressed. We have every intention, in fact we will be inking lease on the remainder of the property for agricultural use. There will continue to be farming on the rest of the acreage, that in itself will create some screening. We know how to develop good projects and sometimes our initial application is going to have already considered a lot of this stuff so when we come forward and show you a pretty robust landscaping plan, setback, all of this kind of stuff, I don't want it to seem like the local representatives wouldn't have asked for that, we are already integrated into the project. I'm sure the board would have asked for it if we hadn't. The last thing is who manufactures the batteries. There are a lot of components to these batteries and they are manufactured all over the world, a lot of the lithium ion is from China. That is a problem that the US industry is tackling head on so, what we have seen in just the last 24 months is huge investments into sourcing that stuff domestically and manufacturing domestically. It takes time. It is not just our industry, it is the electric cars, cell phones and laptops. It is an issue across the board with our electronics, we need to manufacture more of it and source a lot more of it at home so we are not exposed to some of the issues globally that we are seeing now with our energy source. **Tim**; an example, it was just announced last month that a 2.5 billion battery manufacturing facility that is being constructed in Kokomo. It will take a couple of years to complete so it's an issue that the US and the folks who are capable of manufacturing those batteries are tackling. Cyrus, when is the earliest that construction will start? **Cyrus**; earliest 2024, more likely 2025. **Tim**; the batteries have not been ordered yet so hopefully the US has caught up by then. **Brad**; here is where I am at, we have quite a bit of commitments here that I think we want to make some changes to, for sure, your landscape plan that you submitted is somewhat generic, which I know they always are at the

onset of every project, I see them every day, I would really like some more detail there and would like to see some cooperation with the neighboring landowners on that matter. I think that is going to be a big help to this situation. I don't want to speak for the entire board but I do believe that we only want the 15 acres to even consider it. **Tim;** agreed. **Brad;** with all of that in mind and the fact that we have quite a bit of commitments that we really need to review a little more thoroughly, I would like to table this until the next meeting. **Krista;** can we discuss one more thing, on page 1 if you look at C, does that... **Brad;** all of these are things that I think we need to, as a board, work together and within the next week, as far as all of these commitments, we need to review, really do our homework on and kind of work back and forth to make sure that this is what we want to see. I agree, that is one that we need to get some dates set and the timeline for deactivation. **Krista;** yes, we have 12 months, then 12 months to decommission, its stretching it out a little bit but I just wanted you all to look at that. **Brad;** and a decommission plan, what it will entail, how quickly it will happen. **Krista;** they say they will put this facility back to 3 feet below grade, we usually go 5 feet or disturbed area. **Brad;** yes, basically what you would recommission of the site would be.. **Krista;** in a couple of places they identify the Adams VFD, etc. It should just be "jurisdictional". I think we are going to go with some fire districts so we want to put jurisdictional fire department. On number 6, as to the turning radius of access roads... **Brad;** that's just within the facility. I have a few that we need to edit and get back to them. I would like to see a landscape plan with a little more detail. **Brent;** There are sites already, when the substation came in, they showed the decommission data and then they came back and did (inaudible) and approved it. Is there concrete data, I trust but verify, is there data from other facilities that show us the actual zero emission, noise? **Brad;** those are the things we need to know. **Brent;** we would like to see some data around the existing structures. **Brad;** that should be easy enough for you guys to obtain. **Tim;** there are no emissions, the only real noise is the HVAC systems. That truly is it. If you are familiar with electric cars, these are very, very, very similar batteries. They are quiet. **Brad;** we will be in touch. **Tim;** do we need to, is it continued or is there a vote or are we good? **Brad;** we can table. **Tim;** thank you, we do appreciate the boards time in working through these issues.

**\* BZA Petition 2022-8 – Steve Ruble, Strand associates for Decatur County Board of Commissioners is requesting the following:**

- A A **“Special Exception”** as provided in Decatur County Subdivision Control Ordinance #320 to NOT include any fire hydrants at the proposed site;
- B A **“Variance”** as provided in Decatur County Zoning Ordinance #2270 put up a Chain Link Fence with a height greater than 6 feet;
- C A **“Variance”** as provided in Decatur County Zoning Ordinance #2255 to NOT provide trash or loading dock enclosure or screening;
- D A **“Variance”** as provided in Decatur County Zoning Ordinance #2210 to allow a gravel surface in the Material Storage Yard;
- E A **“Variance”** as provided in Decatur County Zoning Ordinance #2265 to provide NO buffer yard on the South, West and North side of the property;
- F A **“Variance”** as provided in Decatur County Zoning Ordinance #2260 to allow a Cold Storage Structure to encroach the buffer yard, (only if E is not approved).

**Steve Ruble of Strand Associates:** You can see here (referencing overhead projection) is outlined, you can see how it lays. The foreground is where the office is, they will report there on a daily basis. Immediately to the west is the office/shop area. That is where they will do their maintenance. On the far end, the open buildings, is where they will store their salt material. To the north is a fuel canopy, that will be a multi-use canopy, multi agencies will use that as their fueling site for the county. On the south is end of the site is what we refer to as the cold storage building,



that is where they will store a lot of their equipment. Variance request 1 is for fencing, there is security needs and issues. The county is looking at an 8' tall with three rows of barbed wire on top for added security. It will be screened, that does not match what is allowed by the zoning ordinance. That is why we are asking for the variance. Second request is for dumpster screening per the code, in this particular instance our entire site will actually be screened and in dealing with gates and fencing immediately around the dumpster for a facility like this is an operational issue, since we are screened visually at 8' tall, we are asking to not have individually screened dumpster. Variance 3 is requesting to use a gravel surface as opposed to a paved surface for their pipe and material storage area. If you have been to the current highway department, you know that they have a need for a lot of outside storage for materials, sometimes equipment. We think this is the best option for this particular facility. They will have heavy turning movements on that, very low volume traffic and it represents overall about 1.09 acres, to give you a scale. The site in its entirety is approximately 18 acres. Variance 4 is buffer yard, we are requesting to not install the buffer yards on the south, west and north sides. The buffer yard requirement next to the airfield is 80 feet, to the north is property that the county will maintain ownership of, the requirement there is 6 feet and the requirement on the east side is 80 feet and we agree that it is certainly good and appropriate to keep that buffer yard to east of the adjoining property is a farm homestead, we are working directly with them to make sure that we provide the required buffer yard and landscaping that is going to help mitigate their view of the highway department. **Brad;** will you have a berm there Steve, is that the plan on the east side? **Steve;** that is what has been talked about. This just kind of gives you an idea of what you are looking at out there (referencing photos on overhead) and what we would be buffering against if not granted this variance request. **Brad;** basically your buffer exception is simply because of your retention area, correct? **Steve;** the corner of the new building encroaches into what would be the buffer yard. The buffer yards are there to separate dis-similar uses from being impacted. In this instance, I don't know how this use is going to impact the adjacent uses. I don't know that that is the best use of the county's resources to put in those buffer yards in this particular application. **Gary;** as we see what's there now, and as a predecessor's have always told us, what is going to be there in the future? For example, what could be developed on the airport other than the runway that is out there now. If those people come in to that, how are they affected, how does that get mitigated in the future? **Steve;** one of the things that we have to do in our development process is to get an INDOT Aviation Approval, so our department of transportation administers that permitting process and we actually have to get a permit from INDOT who coordinates with the local Aviation Board to make sure that our use is not going to interfere with their operations with the airplanes. I understand that that is something that's outside of the control of this board but hopefully that gives you some indication that our proposed use is not going to have a negative effect on the operation of the airport. I can't speak as to what the airport might do in the future.

Joyce Brindley made a motion to vote on BZA 2022-8 on variance request A-E with F being left off; Janey Livingston seconded the motion with all 5 members present voting yes. **Brad;** the petition passes, thank you for your time and thorough presentation.

\* **BZA Petition 2022-9 – Justin M. Gifford for Robin Carmer of Hillbilly Corner** is requesting a “Permanent Special Exception” in an A-1/A-2 zoning classification to run a farmer’s market and sell flowers, produce from their farm and other local growers, ice cream, and cold cuts & cheeses. This request falls under Decatur County Zoning Ordinance #925. The property is currently owned by Tim Callahan and is located at 7336 W CR 300 S, Greensburg in **Clay Township** 47240.

**Brad;** we need to strike the work “permanent” off of the agenda, it will be a “special exception”.

**Justin Gifford, Attorney for Hillbilly Corner** – There has not been a lot that has changed since we were last here, although, I think everybody knows from the correspondence we have had over the last month, I had provided a memorandum of understanding, I have talked with Melissa and Chad from the Commissioners as well as with Krista and our position kind of hasn't changed from the stand point in that we believe that we have met all of the requirements from the county, accepting and expecting an inspection from the building inspector, the reason we couldn't get that done before the last time we were here is because we didn't have the design release from the state. We have received that. Krista has received that also. At this point as far as we are concerned, all that needs to be done to meet the county's requirements is for that building inspection and occupancy for the actual store part of the building. Everyone recalls, that building which is on the front of this packet, was constructed to have both a residence with a garage as well as a small farmers market inside and that is in compliance with section 925 which does require a residence be on the same property as the farm market. I think there was some non-specific concern about whether this qualified as a farm market because there was going to be meats and cheeses in there, I jokingly said that I'm pretty sure that I could drive from Nashville over to here and stop at every farm market where you will find meats, cheeses and jams and what not, I was at Bush's last weekend over in Columbus and guess what, I bought sausage. So, I think that this is an appropriate use, I think that Robin and Tim have gone above and beyond and built a really nice building. We are more than happy to discuss the needs from the board regarding operations but from my discussions with Tim and Robin everything that they thought about doing is totally in line with the normal operation of a farm market. At this point I would entertain the boards thoughts as far as our request for this special exception so that we can try to figure out, if there is anything else we need to do and probably most importantly, my clients how quickly they can get open. **Brad;** so we are looking at a special exception which would allow them to do everything that you have discussed. **Justin;** yes, under section 925. **Brad;** and I think the only concerns that were brought about were the size of the area and if we put any covenants on if the property changed hands down the road or any changes to what is actually happening in there. **Justin;** as far as I know we have no objections to any of that, Tim and Robin don't have any intent of selling the property to somebody else and what you see if what you get out there on that property. Just so everybody knows, what is in this packet is already part of the record. It's nothing anybody hasn't seen. **Joyce;** I appreciate them doing this, Burney is a small town with no store, people can visit a place where produce and a little meat and cheese would be a great place to put there. There is a lot who live around who use that, in fact, I have been there and I think it's really nice. The only thing that I would have is that if you get a crowd, is there plenty of parking? I would like to address that, but other than that I think you guys have really, really struck out here so many times that I feel bad for you. I have been there, it is very quality, nice and clean. It's great for the local people. **Justin;** do you guys want to partially answer that question on parking, because I think it is probably impossible to answer right at this moment, we haven't operated. **Tim;** in the beginning it was just a little shed and there wasn't enough parking. Now the building is in the front and we have made almost that entire thing, we are only I think 10-15 feet away from the front of the building for parking. The little shed will be gone, I will gravel that. That won't be an issue. **Joyce;** do you know approx. how many cars you can get on that lot? **Tim;** right now I'm guessing probably 7, once we get the shed out it will be 10 probably. **Joyce;** it is a small place but it is very nice. **Brad;** my first thought would be is the special exception would stay with them as property owners only, with that property. **Justin;** as I understand it, that's just how they work. We no objection to that. **Brad;** as long as it is not permanent, that is why we took the permanent out. **Krista;** what about hours of operation? **Tim;** right now we are open noon to 5, we would probably extend it a little bit further in the evenings, but as far as the morning hours she may open it a couple hours earlier, I don't really see that either but in the evenings, she would probably extend it a little bit for people getting off work, things of that nature. Right now, I was there today and set in the parking lot and I bet there were 3 cars that pulled into the parking lot and wanted to know if the new building was open, just older people who doesn't

want to run to Greensburg to get something. It is just in and out, this is the whole deal, this is hers, I got the farms to run and own my own business. I don't have time for it, but I'm going to make time to help her. It's all hers and that is the reason why I have been in this battle with her. She had 64 people come and go in a days' time just to buy a little produce, it's a community thing. **Justin;** I know that some of the concerns with the hours of operation, with regards to lights, in talking with Robin about this, we are talking about in the summer time when people are coming to get ice cream after a ball game, and since the sun is not going down until 10, I don't think we will see the operations being open until 10. **Brad;** it will be seasonality, essentially, your hours will go with the seasons. **Krista;** is it going to be seasonal? **Brad;** no, I'm saying the hours would probably be seasonal, I don't know if the whole market, I don't know that it would need to be restricted to be sort of seasonality. **Krista;** what about the occupancy of the structure? **Brad;** what is it rated at? **Krista;** that is not my department. **Brad;** typically your State Fire Marshall will give you an occupancy rating. **Krista;** then that will determine the parking that is required, so that at some time we will have to know, and if there is handicap parking required. **Justin;** to the best of my knowledge this isn't a commercial facility so it is not going to be covered by the ADA. **Brad;** no. **Justin;** there will not be a requirement for handicap parking. In terms of the fire protection, again it is not a commercial facility so I don't think the State Fire Marshall is involved in this, with that said, there is a fire wall there, when Robin and Tim thought they were going to have to rezone the facility, it was built to commercial standards and they spent extra money on a fire specialist to come out and address the fact that we think this has to be commercial structure and what do we have to do to not have to put in a sprinkler system, but... **Krista;** this is a commercial structure.. **Justin;** it is not a commercial structure. **Krista;** according to the State it is a commercial structure. **Justin;** under your own rules it is not a commercial structure, it is a farm stand. **Krista;** it has nothing to do with our rules, the State says that it is a commercial structure. That's why you have a construction design release. **Robin;** we did the construction design release because you made us. **Krista;** no, the building requires it. **Brad;** yes, because you have to get with the Board of Health doing your inspections, that is where it all tripped up. Which is irrelevant, you have your state design release, it doesn't matter, you already got that. **Krista;** it specifically says that the private garage shall be separated from the dwelling unit and its attic area in accordance with the state code. So these are all... **Tim;** and the 5/8" firewall is that, double sheeted 5/8", fire caulked at the top, each joint is staggered and sealed. **Krista;** that is a requirement from the state. **Tim;** that was done in the very beginning because that was inspected already. **Krista;** just so you know, this is a commercial structure and it has to be... **Robin;** that is the building you guys asked us to build, that's what we built. **Krista;** no, I didn't specify any building. **Brad;** you've got that already under control. So what we are looking at right now is a special exception for you to do business on that property and we are going to basically, look at, with it being not a permanent special exception, it stays with you guys... **Tim;** and we are fine with that. **Brad;** in other words if you sell it, it is done. **Janey;** but don't they live there? Isn't that where you live? **Tim;** our daughter lives there, she is part, she helps run the store. **Janey;** but you don't live in it? **Tim;** our daughter lives in it. **Justin;** but Section 925 says that as long as there is a family member living there and there is less than 2 non-family members working at the store, that's when you fall under that section, 925. So that fact that their daughter is living there means that it is complying with the section requiring residence. **Janey;** so your daughter has to stay there. **Krista;** no, 925.... **Joyce;** no, they can move in. **Janey;** I know but it has to be family, right? **Krista;** no, 925 does not require a family living there. **Melissa;** that is if it is a Conditional Use. **Krista;** that is what they are under now. **Brad;** we are looking at the special exception here so that they can continue with the building that they have got to do this business. The special exception will allow that. **Justin;** that is correct. **Brad;** that is why we moved it to the special exception and it keeps it from rezoning, it stays the same zoning classification and they can do their business. There is also, if there would be any stipulations that you guys thought we needed to place on that, that is why I asked about, what would be sold. We have that listed here, that is the intent of the special exception so there is some control over what is

happening there. **Gary;** was there not a discussion at APC about this? **Brad;** yes, but we can't do that because we don't want to rezone it, the Commissioners didn't want to rezone it, they pulled that... **Gary;** so did APC approve it and the Commissioners rejected it? **Brad;** yes. **Justin;** we haven't pulled it yet, we requested to table it for this discussion and part of our understanding with you guys is we will pull the rezone petition. We don't want to rezone anyway. **Robin;** and just for the record, we never wanted to rezone it to B2 as property owners, business owners, we never ever wanted to be B2, ever. We were told that is the only way and that is the only reason we went forward with the rezoning is because we were told that we could only operate in business is we rezoned. Just so that is on the record, that was not our idea, we did not want that. **Brad;** so technically for a special exception it is something that we rarely want to do and that is why you were guided down that path. But then the commissioners pushed back on that and that is why we are now, because a special exception isn't really something that we want to do a lot of, but in this case in order to make everything work, this is where we are at. **Robin;** I understand that, I just want people to know that that wasn't our idea or our intent. **Gary;** how to we keep bracket creek from happening here? We stay in the same building but we do more and more and more and it blossoms out. **Krista;** we restrict growth. **Robin;** you can't add to the building. **Brad;** the building is the way it is. **Robin;** that is how you restrict it, we would have to come to you to say, oh we want to add to the building and then we can't. **Brad;** if they want to get add on they would have to get a building permit and you can't do that. **Justin;** and Gary, that is one of the reasonable restrictions that we are happy to agree to. **Joyce;** have you been there Gary? **Gary;** I haven't been inside. I take this job seriously. **Janey;** if it is a farmers market, you said you were selling ice cream, cold cuts and cheese? **Robin;** deli meat and cheeses, hard dipped ice cream, produce, flowers, everything you see at a farmers market. **Brad;** and your crafts? **Robin;** yes. **Krista;** farmers markets typically, according to the State of Indiana, restrict the resale, so they have produce that they are growing on their land, they are buying it, if they are not reselling and they are selling what they produce and what they make. **Joyce;** not all of it.

Audience: **Larry Witham,** Attorney for Bill Finley who has retained my services. So, much or what we are talking about here has to do with some of the history and I think that becomes important. One of the reasons why my client is concerned with what conditions can and will be put on them by the board is because it has become, in concept, just what we are hearing tonight, larger than what it was when it began. When it began it was that little red topped produce stand that you see. Mr. Finley lives at the very top of that, it doesn't show his house but that is where he lives. If you look at where that produce stand is currently, you have been told it will be removed, that is there based on your previous grant of a conditional use for a 5-year period that began in 2016, it expired because they expire by your own rules. At that time they wanted to operate, said they would put a residence on the site and they would be selling produce. Nothing about ice cream, nothing about crafts and nothing about everything that is ever sold at a farmers market. Nothing about meats and cheeses, none of that. So then they came in and that is where this thing got sideways. They came in not too long ago and said we would like to get our conditional use permit extended for another 5 years. We are going to build our residence out there. They got that approval to do the same things they had been doing. My client, and maybe others here, weren't too concerned about that because they had lived with what it was, it was not a terribly big operation, that's great, it provides a public service to those who want to shop there. It wasn't that much of a problem. But now we are talking about something more, after they got the conditional use permit saying you could continue to do over the next 5 years what you did for the last 5 years. Then it became apparent that what they wanted to do was to sell meat and cheese and ice cream and attract people for re-sale of crafts on the site. So these concerns were raised by the neighbors, what's next. They did finally build this building. We haven't talked about tonight that is has a residence that is less than 1000 square feet. The building itself with the garage, which is attached, a huge garage and the store is over 3000 square feet and so it is really intended to be a bigger operation that it was.

And so this mission creep if you will is of great concern to people like my client and probably to others. And what you have, I think one safety issue should be considered by the board, if you look at the area where this is, and there is not a much larger building and the shed will be removed to be more of a parking lot, but you have a confluence of highway 46, the county road intersection right there, you have a driveway to the south and you have their driveway to the north. If you bring in more traffic to buy the things that are more prolific from what they were before, then you are going to have increased traffic concerns. What my client would like, we are kind of assuming that this board is going to grant something, they had a conditional use for 5 years, they asked for it to be extended, it was extended, we are looking for some reasonable conditions and you have talked about most of them. What are the hours, are they going to be noon to 5, noon to 6, 1-7, I don't know but I think they need to be set out so that my client who lives in a very nice home and others who live there, the lady to the south of their driveway, so that they can sit out on their porch at some point in the course of a day, a summer evening and enjoy something besides cars coming and going, headlights and whatever noise is involved. So we would like to see some restrictions on the time of day, what about the days of the week, is it going to be Sunday through Saturday, are we going to have Sunday off, what condition are we going to put on that. Certainly one condition that was talked about, and I think is on this board's mind, is that we would want for there to be no opportunity for them to make this more permanent or to sell to anyone else. I think that the number of people working there won't necessarily be working there, but it sounds like it will be a family operation and as long as it is restricted in that fashion, I think that is ok, but I do think it is absolutely critical that this not be put on the block for someone else to then expand it further. I don't know about the expansion, whether you ought to limit and consider limiting the expansion of the products that they are going to sell, it's one thing to say I'm going to sell tomatoes and melons, corn on the cob, it's another thing to say we are going to buy crafts from China, where most of them come from and sell those and flowers and ice cream, and on and on. If you were living close to this, I have a feeling and suggest that you would be at least concerned to have some answers to those questions, so that is what my client is asking. Thank you. **Bill Fenley**; one of the things that I would like to bring up is, you guys have always said this was going to be a business, has anybody notice that presentation that these battery people just did. They came in and wanted to do something and one of their biggest jobs is to prove to everybody that we are not going to bother the adjoining property owners. I think they call it a social compact, they had already talked to the neighbors, they already met them and discussed things. I didn't get that opportunity. It's called a social compact, something that people need to really learn. They had trees up, it is so far from my house it doesn't bother me, so trees in front of the lady's house would make a huge difference. I know they already have stone but there are things you can do to fix that. I'm just asking for her, do something for her. Car doors slamming, I wouldn't want to go out on my front porch, she lives in the country, she didn't move there to look at a Dollar General. How many special exceptions has the board ever granted, I can't find them anywhere? Is there anything we can make an example of, like this is how it is done? **Brad**; we are making an example right here. **Bill**; that is good but I think there ought to be a lot of conditions involved in it like the hours and I think Elaine ought to at least get some trees. I wouldn't want to look at that, it is a nice building, I'm not saying it is not nice, it's just not why she moved to the country. **Tim**; it's only 2900 square feet total of the building and Mr. Fenley doesn't live there, the building has been constructed for how many years and he still doesn't have occupancy and the building is still not done. How many more years do we wait until all of that is taken care of? I really feel like Mr. Fenley doesn't and hasn't lived there. **Justin**; we talked about this the last time I spoke, the traffic concerns with respect to my colleague ignore the fact that you've got State Road 46 one place and then you have 300 running over to 3 to cut back to 46. These are already busy roads. I don't believe that road noise is a legitimate concern for anybody to be voicing if you are living on 46 or 300. **Joyce**; I do know that the lady lives very close to 46, that is a busy road, correct me if I'm wrong but when you first got that piece of property did you not put in for building a house with the side of it where you could do produce, am I right?

(inaudible), so in other words you put up the little thing because you didn't have the money to put up your house yet. But you already had it all planned out to do this. This is such a small operation that you have I have no idea what the problem is because I have been there, I have listened, I live close to it, I see nothing wrong with it. In fact a lot of my people from Burney, from Forest Hill, up by the junction, they all go there and buy produce. You go to Bush's, Whipkers, any little farm stand and you are going to be able to buy a little bit of cheese and meat if you want. I don't understand this, the house you have now is not an eye sore to the community at all, the only thing that I would wonder about is if there is going to be enough parking, you are not selling enough that the whole town is going to come out there. That is the only problem I had with any of it, I know that you folks have been here many times trying to get this straightened out. **Brad;** here is where we are at, we need to develop what type of stipulations we want here and find something that we can vote on. My current thought is we should put a time length on the special exception, that way if there were any issues they can be re-addressed. Is there anything that says that we cannot put a 5-year special exception? **Melissa;** the time parameter is on but I think you would also want to put the transfer to a different owner. **Brad;** correct, I'm just wanting to include that, we can let them do what they are going to do and if there is a big issue it can be addressed, otherwise, we could just re-up it and on we go. That seems to catch a lot of things, obviously it cannot be transferred to different ownership and if we want to look at anything as far as a restriction of hours or days of week, I don't really think that will be an issue because with the help situation, I'm sure it will restrict itself. Most of these markets do, you can only do what you can do. **Joyce;** first, you are not going to be open all year round, if you are you are not going to have a whole lot of business. **Robin;** we are never going to be open on a Sunday, that's completely out. That is completely out, we will never be open on Sunday, that is my day, it's God's Day. That is one thing that will never happen. This is the thing, with the ice cream, the only reason that I wanted to add the ice cream to it is for the high school kids to be able to come after a ball game and have an ice cream and have somewhere to go. That is the only reason I added the ice cream was for the youth of this community because they have my heart. They have one place to go at South Decatur which is Dairy Queen and there is no place by us. You have to drive all the way to Greensburg so I was just gearing towards the youth of our future to invest in them. That is why the ice cream got added, so if I am going to do ice cream, then I am going to have to be open until it starts getting dark. Nobody goes and gets ice cream at 4 in the afternoon. **Tim;** and nobody gets it in the winter when its short hours. **Rick;** I think the seasonality of that business will set its own hours. **Robin;** it already has. **Rick;** and I don't know that it is this boards duty to tell somebody how hard they can work or not work. I understand that the traffic issues and some of those other concerns but I think it will manage itself. **Brad;** so right now I am looking at 1) a 5-year special exception 2) not allowed to transfer, it stays with you. **Gary;** does this gentleman that's (inaudible) find any specific recommendations for us? **Brad;** he gave them to us earlier. **Gary;** more specific after the conversation? **Brad;** hours of operation, days of week and not permanent. **Larry Witham;** I hear the hours of operation kind of going out the window, I heard the petitioners say themselves probably noon to 5 and now there are not operating hours. I'd like to see something reasonable there, I think my client has asked for that and I frankly expected, I think that is reasonable. We are now talking, and that's great, it may become a great hangout for kids to come and get ice cream so what does that mean. If a lot of them like it, in the summer time we may be talking about 9-10 at night before it is dark and they get ready to go home. Is that what we want? We talked about the fact that you are concerned about the parking, I'm concerned about the parking. I don't think is it defined yet what number of parking spaces there will be so, to just open it up and say do all the things you want to do, which is more than they have done in the last 5 years, people are looking at it right now and saying you did ok for the last 5 years, well, they were not doing all of the things they were talking about. They weren't selling ice cream and they weren't doing some of the other expanded, the meats and the cheeses, and being a locally operated, if you will kind of a farmers market. That is what we are asking is for you to anticipate, that because they are getting a special exception, which

you are allowing them to do more than they did, in their conditional use, then I think you might anticipate some problems. **Brad**; that is my thought for putting a time frame on it so we have some control over the situation. 5 years to see what happens, they have to come back and do it again. We are not going to police them. I don't see that. **Melissa**; one thing you might want to do, because I think their hours are going to flex during the year, maybe say no earlier than this and no later than this, give them that window if you don't want it to open at 6 a.m. and you don't want it open at 11 p.m. One other thing that I think we talked about that I haven't heard yet is no expansion of the structure. **Robin**; we can't do that anyway, there is no room. **Tim**; we don't want to do that anyhow. **Robin**; there is no septic room, there is no room. **Joyce**; I don't think that the other farmers markets are ever open past 10 o'clock. **Gary**; I'm trying to strike a balance in what they want to do as a business owner and be successful and at the same time represent what the other people who live around them... **Brad**; let's hear some hours, I'm not much on restricting them, I think it will restrict itself pretty easily. **Gary**; I agree with that, I think Melissa's idea is good, I think that is a good idea. After much discussion on what the hours should be it was decided that no later than 10 p.m., .... **Brad**; 1) we have a 5-year special exception 2) not allowed to transfer, it stays with you 3) no expansion of the building and 4) and not open later than 10.

**Bill**; what are we going to do about signs? They are not going to put up a big sign are we? **Tim**; I don't know that it will block your (inaudible) you don't live there. **Brad**; as long as they are within the county ordinance... **Joyce**; I'm sure that you don't want to interfere with none of your neighbors. **Robin**; we have done everything that our neighbors have asked us, I don't like the pop machine, I go rid of it, I don't like the porta pot, I hid it, I don't want this, I don't want that, turn the light off, I have done everything they have asked. Everything. **Tim**; we talked about the highway being so dangerous but the mail lady had to put her mailbox on the highway because somebody didn't want the mailbox next to hers. **Krista**; in the petition it says sell flowers, produce from their farm and other local growers, is the produce from their farms and other local growers or are they being shipped in from Florida? **Robin**; we do sell things from Florida, it has never been a secret. I put it on facebook, it is here from Florida. **Krista**; I understand that.. **Robin**; this is from Florida or Tennessee, everything is staying within the United States. I have done that since day one. **Brad**; I don't have a problem with it. **Krista**; I am asking because it is in the petition. **Brad**; we can remove that as a restriction. **Gary**; I think we should leave it in there, I don't think we should take it out (inaudible)... **Robin**; we have been doing this for 5 years. It's still from the same place. **Brad**; we have all of our items? **Larry Witham**; I don't think I heard you mention that it would be operating between Monday and Saturday. **Brad**; no Sundays.

**Melissa**; I have that, I can recite what I have if everybody is ready. 1) Days of the week, Monday-Saturday, 2) hours of operation will be no earlier than 10 a.m. and no later than 10 p.m., 3) no expansion of the structure, 4) no transfer to another owner of the parcel to continue the operation, 5) it would be subject to a five-year review. **Joyce**; you want them to (inaudible) trees for you too? You mean trees on their property? **Rick**; I make a motion that we vote on BZA 2022-9; Janey Livingston seconded the motion. **Bill**; can you guys do that? I seen you do it to others, that you have given any kind of special permits to, I seen you add trees. **Elaine Sebastian**; can I ask a question? **Brad**; we are done. **Elaine**; I just want to state a fact, no one asked me about a mail box. **Brad**; you can take that up with her afterwards, that's not for this meeting. **Elaine**; ok, it was brought up in the meeting. **Krista**; this doesn't mean they can open tomorrow, regardless of what the vote is. Krista read the votes with all members present voting yes. **Brad**; your petition passes. That is the last item on our agenda, do I have a motion to adjourn?

Gary Fisher made a motion to adjourn the meeting at 8:28 p.m.; Joyce Brindley seconded the motion.

Decatur County Board of Zoning Appeal

---

Secretary, Janey Livingston

Decatur County Area Plan Commission

ATTEST:

---

Brad Schutte, President    Decatur County Board of Zoning Appeals