

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, March 4, 2020 at the Decatur County Courthouse. The meeting was called to order by Paul Stone. All 5 board members were present. Also attending the meeting was Krista Duvall – Decatur County Area Plan Director, Debbie Martin – Administrative Assistant, Rick Nobbe – County Commissioner and Jerome Buening – County Commissioner.

Paul Stone called the meeting to order and read the following; *to comply with Title VI of the Civil Rights Act of 1964, Decatur County requests that participants in this meeting complete a voluntary, anonymous survey that is available on the table in the back of the room.*

The minutes of the February 5, 2020 regularly scheduled BZA monthly meeting were approved as mailed.

* **BZA Petition 2020-1 – Raymond Huening** is requesting a “**Conditional Use**” as provided in the Decatur County Zoning Ordinance Section # **2530** to build a pond on this property. The property is owned the petitioner and is located at 3342 S CR 750 W, Greensburg in **Clay Township**.

Due to an illness Mr. Huening was unable to attend, Krista Duvall presented his petition. The pond will be well over 150’ off of the road, 10’-15’ deep, will have Jerry Wells design it which will be ¾ of an acre.

Paul; this meets the minimum distance from the residence to the north? **Krista**; yes. **Joyce**; and it’s just for the drainage from the field? **Krista**; he has a real low spot there and even in the drought last year it never dried up. He has a lot of erosion up closer to the road so he is hoping that this pond will help with both of those, he thinks there may be a spring that keeps it wet, he cannot mow it or bail it so he wants to put a pond in. **Jay**; had he checked with the local fire department, could there be a draft put in this pond? **Krista**; I did not ask. **Paul**; the proximity to the road appears to be close. I would ask that we at least ask Mr. Huening if this is something to consider working with the fire department. I know there is something closer back towards town, but this is a little farther to the west and may provide some benefit. Are there any adjoining property owners here? **Bob Dawson**; my property is to the south, I had a couple of ponds built next to this same property and neither one of them worked out well for me. Right now I have wetness that has come back up into my waterway on the one pond and the other pond I have spent several dollars going around this dam and get it (inaudible) but I’m all for it, I just don’t want to have problems with the wetness and the spring that is down there by the road, that probably is my tile, I didn’t put the tile in, I assume there is tile there that came with the property and I would hope that they would maintain an outlet for me so if I need drainage I can add on to it. As long as it doesn’t back up on me and I have an outlet tile, everyone can have fun and go fishing, not a problem. As long as I can be assured of that. **Paul**; so this board (inaudible) but it is common that you are not able to back water up or disturb the existing flow of water. That will be noted in these minutes that the request is made. **Bob**; Jerry built the pond down the way and we got along fine, the tile outlet that I put in was supposed to be elevated 2” above the high pool, now the tile is a foot under the water. I would be glad to talk to Mr. Huening and Mr. Wells on

how the thing is to be designed. I think there is enough fall there not to worry about it, I don't think it will be a problem backing up on me, I would like to have a tile outlet maintained there for me. **Krista**; if there is a tile and they hit it they will have to maintain it. They cannot just cut it and Jerry knows that. We will certainly remind them of that. **Jay**; so the point is that they cannot use that tile for the fill of this pond, is that what you are saying? **Paul**; as long as it is above water. **Bob**; as long as it's above water level, I don't want the tile under water, and I'd like to see it. **Jay**; they will need to maintain the existing outlet. **Bob**; I'm all for them building, I was raised with ponds. It's just that sometimes it gets to be a problem. I think there is state law relative to backing water up on your neighbors. **Jay**; yes and we have drainage ordinances that also would enforce that at the county level..... (Inaudible). **Paul**; it appears that it meets all of the setback requirements, the neighbors seem to be satisfied. **Jay**; I would like to re-iterate that Krista follow up with him to see if he can work with the local fire department has a wish for a draft basin that he try to accommodate that and support our community. He is going to be on a side road that is not close to town and it looks like it may be appropriate to put one there if it is necessary by the fire department, but if not that is fine. I would ask him to contact the fire department that serves his area and see if that is something that they can work on and to be sure to be a good steward with the water drainage from that field.

Jay Hatton made the motion to vote on BZA 2020-1 with the stipulation that Mr. Huening looks into the draft basin with his local fire department and to be mindful of the drainage from the farm field; Joyce Brindley seconded the motion with all 5 members present voting yes. **Paul**; the motion passes.

* **BZA Petition 2020-2 – Robert Bell** is requesting a “**Conditional Use**” as provided in the Decatur County Zoning Ordinance Section # **935 (2)(b)** to buy and sell firearms on this property. The property is owned the petitioner and is located at 4765 W State Road 46, Greensburg in **Clay Township**.

Robert stated that he wishes to be able to buy and sell guns at this property, nothing big, just possibly may use one of my buildings that is close the my house. As of now it will be out of the home. **Paul**; no firing of the guns or a shooting range? **Robert**; no. **Paul**; is that an FFL for that? **Robert**; yes, I have everything done but the zoning. **Paul**; I think we have some of these existing in the county. **Jay**; do you have experience in doing this before? **Robert**; yes in Shelby and Jennings County. **Jay**; and no problems? **Robert**; no, never, I have done this for over ten years. **Jay**; but no discharging of the weapons, not test firing? **Robert**; no, I have never had any robberies or anything like that. **Jay**; how are you planning on advertising? **Robert**; work of mouth, I don't want signs, if I wanted a sign I would have to come back to you. It's just with people I know, a lot of it will be done when people buy online, they send it to an FFL and then I will bring it in. Down the road possibly I may do something in Westport. I want to see how it goes for now. **Joyce**; will you have assault rifles? **Robert**; no. **Janey**; are these collectible guns? **Robert**; they will be whatever a person want, I will be a licensed dealer through the government, I could get an assault rifle yes, but that is not my plan. Mostly for hunting. **Jay**; what about ammunition, how are you going to handle it? **Robert**; as of now I am not going to have ammunition. I will not be selling ammunition. **Jay**; are you producing ammunition? **Robert**; no, I won't be producing guns or ammunition. **Joyce**; so you are basically buying and selling, if someone says I need this sort of gun you will go and find it for them? **Robert**; right. **Mr. Obermeyer**; my business is right across from you, I have no problem with any of it other than I just don't want a shooting range with our business and grandkids next door. **Jay**; and I own the field that surrounds him so I don't want that either. You have adequate room in your barn lot there for a couple of cars, you don't anticipate having a swap meet or gun show or anything like trading on a Saturday? **Robert**; no, absolutely nothing like that.

Joyce Brindley made a motion to vote on BZA 2020-2; Jay Hatton seconded the motion with all 5 members voting yes. **Paul;** your motion passes, appreciate you going through the right steps in doing this. What I would ask is that you carry out the business as we have discussed here, if something changes with that please let us know.

* **BZA Petition 2020-3 – Gary Sullivan** is requesting a “**Variance**” in an R-2 zoning classification from the 30’ front setback to a 12’ front setback to build a garage. This request falls under Decatur County Ordinance #1060. The property is currently owned by the petitioner and is located at 404 E Jefferson St, St Paul in **Adams Township**.

Gary said that he wants to build a 30’ x 30’ garage, currently has a carport that is 18’ x 21’. It will be 12’ closer to the road than what the carport is now. **Gary F.;** will the carport be removed? **Gary;** yes. **Joyce;** will the garage be behind the house? **Gary;** no, it will be where the carport is now. There is another garage there but it was turned into an apartment before I bought it. **Joyce;** will it be attached to the house? **Gary;** I’m still talking to the contractor to see which way would be best to do. I don’t really want it attached. **Paul;** is this a 4-way stop? (Referencing the overhead map) **Gary;** no. **Jay;** so the setback will be to the South Taylor road? **Gary;** correct. It will be basically the same depth as the house and then 30’ out to the side. Basically only 12’ wider toward Taylor Street and 9’ longer than the carport. **Paul;** and you don’t feel like site line will be compromised with traffic at the intersection? **Gary;** the house directly behind my garage apartment is the only house to face Taylor there, it ends at the railroad tracks two blocks off of Jefferson. **Jay;** what is the height of the garage? **Gary;** same height as the house. **Jay;** so 10’-12’ high? **Gary;** yes. **Joyce;** and aesthetically it will go with the house? **Gary;** yes. **Janey;** is that house brick or frame? **Gary;** it is a framed house with Bedford stone on the outside. **Jay;** I’m looking at the house across the street from you, on the garage side, that garage looks fairly close to that lot line as well. Do you know how close that is? **Gary;** no, I don’t. **Paul;** will you access this drive the way it is currently or will you come off of Taylor? I want to use it how it is now the way my carport sits. **Jay;** Jerome Buening, do you have any feelings on that, do you see any problems with this since you know the area so well? **Jerome;** not really (inaudible).... **Paul;** he won’t, he will come out of the U drive, not back out onto the street. (Inaudible).... **Gary;** where my carport is is where I want to put a new building and put a door on the front and back. I come in from one direction and my wife comes in the other direction. The carport is too tight. (inaudible) **Jay;** no fire hydrants along that street in front of there? **Gary;** it sits on the other corner. **Joyce;** this will be mainly used for your automobiles, right? **Gary;** correct, and my lawn mower and a few other things. **Janey;** I think it will look nice, an improvement over the carport.

Gary Fisher made a motion to vote on BZA 2020-3; Janey Livingston seconded the motion with all members present voting yes. **Paul;** you request passes, we appreciate you following this and doing it the right way.

* **BZA Petition 2020-4 – Steve Schmidt of KS&G LLC** is requesting a “**Variance**” in an I-1 zoning classification from the required 50’ rear setback to a 25’ rear setback and from the required 50’ side setback to a 30’ side setback to build a pole type structure. This request falls under Decatur County Ordinance #1214. The property is currently owned by the petitioner and is located at 1408 W Washington St, Greensburg in **Washington Township**.

Steve Schmidt; I would like to build a 64’ x 98’ building for a warehouse, I want to come back 25’ to square it up with the neighbors building. There is plenty of room but would like to line it up, it will look nice. **Paul;** I see what you are saying, it makes sense, what is the height of the

building? **Steve;** 18'. **Jay;** was Schomber an I zoning? **Steve;** yes. **Krista;** they are all I-1 zoning back there. **Jay;** and they had to get a variance? **Steve;** yes. **Jay;** what are they on their side setback? **Krista;** they are 25' and 30', it is the same that Steve is asking for. **Joyce;** and he asked for the variance? **Steve;** yes. **Joyce;** so it is kind of setting a precedence. **Janey;** are the buildings the same height? **Steve;** yes, mine will be longer than his building. **Jay;** it will be really tough, the reason those industrial setbacks are made that way is due to fire protection and to get larger equipment around those. We don't like moving those buildings back, I hear what has happened in the past but I'm saying there is a reason. We are not doing ourselves and the I zonings a favor by going these directions. There is an LP tank sitting right there, we can't get a truck around the back. **Joyce;** 25' is a whole lot less than 60'. **Jay;** I'm just saying the board needs to be cautious doing these kind of things because it sets a precedence and then you get trapped and it's tough to support why we do these things. **Paul;** what kind of distance will it be off of the road Steve, if we abide by the current setbacks, what kind of crowding does that**Steve;** handed a map to the board to look at. (Inaudible.....) **Steve;** (referencing the overhead map) right here there is a roadway that goes through here. I put that there, it is a right of way. If something happens a fire truck can come through here. There is only one roadway to the east of the property, I have one right here. I put that in myself. I have all kinds of room out front. **Paul;** where will the doors be located at, I assume you will back semis into this? **Steve;** they will be right here (referencing the overhead map). **Paul;** they will back in this direction? **Steve;** they will come in this way and back in here. **Joyce;** what is the building going to be used for? **Steve;** storage, warehouse. **Jay;** the building will be longer going north and south. **Steve;** it will go this way and will be 64' this way (referencing the map). I will have 30' on this side, this will be all gravel, maybe blacktop. **Gary;** is that a drive or easement? **Steve;** it's a private drive but everyone uses it. There are 2 ways to get into the lot. **Gary;** the one on the right, is that an easement? **Steve;** yes. **Paul;** are you doing this to make things from and aesthetic view, if your neighbor wasn't there would this operate fine within these setbacks that the county would like or will this put you at an inefficiency? **Steve;** no, it won't bother me none, I just want to make our place look nice and square. **Paul;** are these semi-trailers as well to the west? **Steve;** yes. **Joyce;** the building down here, is this your office? **Steve;** yes. **Joyce;** what would happen if you put that building to where it was level with the office? **Steve;** I won't have the room to back in my trailers. **Jay;** we have made variances on this first building when you put it up too? **Steve;** yes. **Paul;** if we would appreciate the 50' and 50' setback is that something that you can live with and make everything ok? **Steve;** yes I can. **Paul;** if it is not going to put you at any discomfort or inefficiency, I would ask that of you so that we don't get into a slippery slope of doing for one person, and I don't know the Schomber history, but there is probably some kind of a reason of why he did that, not just because he wanted to or preferred that, if that makes sense. I don't know the position of the rest of the board, these variances are certainly effective when it is a necessity but when it is not....

Jay Hatton made a motion to vote on BZA 2020-4; Joyce Brindley seconded the motion with 2 members voting yes and 3 members voting no. **Paul;** the petition does not pass. Thank you for following the process and coming in Steve.

With no other business to be brought before the board the meeting was adjourned at 7:07 p.m.

Decatur County Board of Zoning Appeal

Secretary, Gary Fischer

Decatur County Area Plan Commission

ATTEST:

Paul Stone, President

Decatur County Board of Zoning Appeals