

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 7, 2018, at the Decatur County Courthouse. The meeting was called to order by Paul Stone. There were 4 board members present, Joyce Brindley was absent. Also attending the meeting was Melissa Scholl - BZA & APC Attorney, Krista Duvall – Decatur County Area Plan Director and Debbie Martin – Administrative Assistant.

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 February 7, 2018 regularly scheduled BZA monthly meeting were approved as mailed.

Attorney Melissa Scholl swore in the audience.

*** BZA Petition 2018-4 – Nicholas & Rachel Trenkamp** is requesting a “**Variance**” to the required rear setback of 30’ to 10’ to build a pole barn on their property. This request falls under Decatur County Ordinance # **945(5)**. The property is owned by the petitioners and is located at 6017 N CR 225 E, Greensburg, in **Clinton Township**.

Nick stated that he would like to build a 40’ x 60’ pole barn and the only spot that he can put it is noted on the map. With the geothermal line, my septic field and the electrical lines are limit my area that I can place it. I will pull tractor and implements in there, be able to close the door and work on them, back a hopper bottom in there also.

Jay; which side is the doors going to be on? **Nick**; the north side only. **Jay**; and you can pull a hopper bottom in there and back it out ok? **Nick**; yes, I will build up my gravel area a little bit and back in. **Roger**; are those trees coming out? **Nick**; one will come out. **Roger**; the adjoining property is the same name as yours. **Nick**; my dad owns that. **Roger**; you understand why we don’t want you to go any closer just in case you sell in the future and your dad won’t allow, or you won’t allow someone to access that side of the building, to maintain the building. **Paul**; situations arise where property owners don’t always get along and you can’t set ladders across property lines. I certainly understand your request about setting it on the line but unfortunately lawsuits arise from problems like that. **Jay**; that property has had a fair amount of turnover. There has been 3-4 owners of that property since your dad had it. That is a reason why we have the setbacks, I’m going to suggest that you move the building 90 degrees and then you will have the setbacks that you need. **Nick**; in order to move it I will have to take out that big oak tree there and that’s a monster oak, a beautiful tree. **Jay**; but you have considered it? **Nick**; I don’t want to take it down, my wife is not going to let me take it down. If I turn that building, in order to make my drives hit that I’m going to be jacking with the property line on the east side as well. **Paul**; what is the absolute closest it can be and still function? I assume you are 10’ off of your geothermal loop as it would lay not, is that correct? **Nick**; as it would lay right now it would be

about 4' off of my loop, I'm as close as I can be to that loop. **Roger**; the truth is you cannot get close to that loop otherwise it will jeopardize the function of the loop. **Jay**; what is the life expectancy of the pole barn? **Nick** 50 years. **Jay**; what is the life expectancy of the oak tree? **Nick**; I don't know the answer to that. **Roger**; here is another suggestion, if we approved something like this, since your dad does own that it is not impossible for you to purchase another 10', is that something that is possible? **Nick**; he doesn't want to give up that back piece of grass, it's a waterway and in some point in the future he may need to put a tile in there. **Paul**; it appears that you have exhausted some options there, you feel comfortable that you are able to maintain the building with a 10' barrier on the back side of that? **Nick**; absolutely. **Jay**; how tall is the building? **Nick**; 14' sides. **Jay**; Krista, what are we proposing or what does our new ordinance look like with the setbacks, didn't we discuss possibly changing some of that in the future, something like if the building was taller than 10' then it would have to be the height of the building away from the property line? **Krista**; we have been discussing something like that because we were going to reduce the setbacks a little bit. We discussed having the setback be the height of the building. **Jay**; I understand that you have a plan in mind and you love the tree but I just know what we have done in the past with other people and I can't think of a 10' on a building this size in a rural setting. With you and your dad owning the ground together that there can't be a way that he can give you 5' or you move your building 5', there needs to be a little more distance, I don't feel that 10' would be the right way to go, it's a new standard if we do this and once we start giving that out then the leniency continues. I just don't believe that your hardship is deemed on this site. I think there are other things that you can do that would have prevented you from being here tonight. But it is your choice to ask us for a variance. I would just love to see 15'. **Roger**; it's tough to give 2/3 and 1/3, 10' is just not enough to go that way. **Jay**; it looks like we are being difficult but our handbooks (and I re-read it this morning) that we were given clearly do not support us to do something like this. **Nick**; I really need 10', if my dad were ever to sell ground, I'm going to buy it. He won't move on selling that because it is a waterway. **Janey**; can the building be less than 60' and accommodate your needs like 5' less? **Nick**; 60' is what I need in order to get the equipment in there and be able to work around it. **Jay**; is this building for your dad's equipment or yours? **Nick**; both. **Jay**; does your dad have a spot to build this building? **Nick**; he does not. **Janey**; how far is the canopy of the oak tree? No response. **Roger**; then he would have to access it from a different area and that creates another right of way. **Janey**; oh, I see. **Jay**; it's just a difficult situation, the setbacks are put there to keep property owners happy with each other and to allow maintenance to the building. **Paul**; if this is a tie vote, what happens? **Missy**; you must have 3 yes votes on this board to pass, he can table it if he wants to go and look at other alternatives and come back but if it is voted on and it does not pass then there is a one year window before he could re-apply. **Paul**; I believe that you have done your due diligence to try to find an alternative. I personally am ok with it but we need to take a vote to make this official. We need to open this up to comments from the audience and you can decide if you want this to come to a vote. 3 people need to vote yes for this to happen. We are short one person tonight, you could say that you are willing to flip the building, take down the tree, I know that's not what you want. **Nick**; I have thought about that hard and long an even if I did flip it getting my driveway to it would take more, as you can see the actual property line is not clear out there, if I move the building I will be within 10' of the other property line. The oak tree is only about 10' off the property line. **Roger**; The property goes back at an angle, and because that pin is somewhat off the argument is there is a tree that will be almost on that property line. If you move this pin back here 2-3 feet it will give you more room. Maybe you can discuss with your dad because you actually own part of that waterway that it is dumping into. The waterway issues was discussed further. **Jay**; Paul I really get the hardship in

this thing and what he is up against. Nick, have you layed out the building the other way to see what mechanically would work? Nick; I have pulled a tape on it a little bit and looked at it and like I said I'm well within the 30' of that east line so I didn't actually truly lay it out and pull all the measurements on it. Jay; we have been through this battle many times on the 10' setback and when push comes to shove and everyone is done giving and taking we have tried to settle something higher there, like 15'. That is not our setback but a general rule of thumb and something that we can live with. I can sympathize with you but I also know what we do here and you are asking for a variance and if you can't move we either have to table it or vote. Paul; regarding the concern of your father wanting to be able to maintain and adding tile to the waterway, by all rights he is always going to add something from the south to the north, as long as he has ownership to half of that waterway there is no reason he couldn't have every ability to dump in the waterway. I would highly encourage you to negotiate with him to where you could purchase another 15'. Roger; technically 15' would put you into this field. Paul; what is your opinion? **Roger**; my opinion will be as the vote comes through I will decide when he decides if he wants to go through with a vote. I don't like 10'. **Paul**; that would be my recommendation should you choose to move forward with it, shading crops is not an issue, having other buildings being built close to it is not a concern. I can't put things into my head that I could foresee becoming issues like I do see some requests that come in. Purchasing some additional property is where I would like to see you land, so that is up to you whether or not you would like us to take a vote on this, I will remind you that it needs 3 yes votes. **Roger**; you could table it and come back another month. **Nick**; like I have said, I tried to get him to push that line and he does not want to move it. **Paul**; and his reasoning is that he is concerned about maintaining his own drainage, is that correct? **Nick**; correct, he does not want to give up any of that waterway. **Roger**; is he going to have a personal interest in the use of this building too? **Nick**; him personally no, but I will work on his equipment in there. **Paul**; it's up to you, make the call on whether we vote as it sits today or you can table it and come up with another alternative, it's your call. **Nick**; I don't have another alternative. **Paul**; you do have an alternative, you could get rid of the tree and move the building. **Roger**; he won't be able to access it. **Jay**; once the building is turned you can't back up any, go west? **Nick**; my septic field is behind the house and it comes close to where I am setting at now. **Janey**; maybe if you explain to your father the situation you are up against, that if this doesn't pass you are going to be delayed a year and lose your fee. Maybe finesse him a little, it is as you say somewhat in his interest, he won't own it but you will provide a service, just maybe another conversation telling him what was discussed here tonight might sway him to give you 5'. **Roger**; you have to treat this as if it is not his father that owns that property. And we have to treat it as that way also. It's not for us to suggest to him to do that. **Jay**; I think Roger makes a good point about that, you and your father are cordial today but we are passing a judgement on a building that will be there 50 years and we don't know who will be the two owners in the future. We are trying to protect the next people who will own that, and that is how we look at all of these situations, it's not today, we are looking down the road. That is what we are really after here, will this work down the road. **Roger**; what I would suggest, it's not going to cost you one way or the other, other than some time, we can all visualize this and you can actually exhaust all of the options that you have but it would be only one month of time that you would not have construction on. So I would probably advise you to table it right now and come back next month. **Nick**; I would like to table it. **Roger**; thank you Nick. **Jay**; thank you.

Paul; we will table this for now and revisit next month.

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

Secretary, Joyce Brindley

Decatur County Area Plan Commission

ATTEST:

Paul Stone

Decatur County Board of Zoning Appeals