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, May 27, 2020 at the Decatur County Courthouse. The meeting was called to order by Paul Stone. Present at the meeting was Paul Stone, Jay Hatton, Gary Fisher and Joyce Brindley. Joining the meeting via Zoom is Melissa Scholl, BZA Attorney. Joining the meeting via phone is Janey Livingston. All 5 board members were present. Also attending the meeting was Krista Duvall – Decatur County Area Plan Director.

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.

BZA Petition 2020-5 – **Chad Ryle** is requesting a "**Permanent Special Exception**" 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 2082 S CR 60 SW, Greensburg in **Washington Township**.

Chad Ryle: I want to put in a pond, about ½ acre, 15' deep, it is 150' from the road and I will not be disturbing more than 1 acre. Paul; this property, referencing a map, the dam will be to the south? Chad; no, it would be to the west. Paul; who will construct the pond for you? Chad; I have some guys at work that will do if for me, they have built ponds before. Jay; you are not planning on adding any more homes behind your home are you to utilize this pond, no other further development? Chad; no. Joyce; what is the purpose of this, for drainage? Chad; basically for just fishing. Jay; is there tile through that area? You know if you hit that tile you will have to make provisions for that do not be backed up in any way, you cannot back up that water on another property. That tile needs daylight. Chad; we will take care of that. Jay; does any of the water from Standard Fertilizer come to this area? Chad; no. Jay; so it's just your lot that mainly drains into that pond? Chad; yes. Paul; it is going to be far enough off the road that the connection for a fire department is probably not a feasible option? Jay; I was seeing that as well. Joyce; will you have a driveway to the pond? Chad; no.

Joyce Brindley made a motion to vote on BZA 2020-5, Jay Hatton seconded the motion with all 5 members present voting yes.

This petition was POSTPONED: BZA Petition 2020-6 – **Brian Gard** is requesting a "**Variance**" in an A-1 zoning classification as provided in the Decatur County Zoning Ordinance Section # **945** from the required side setback of 30' to 25' to build a pole barn and a variance to the required rear setback of 30' to 15' to build a single family detached dwelling. The property

is owned the petitioner and is located just south of 929 Barachel Lane, Greensburg in **Washington Township**.

BZA Petition 2020-10 – **Stonebridge Trucking** / **Shane & Butch Kennedy** are requesting a "**Variance**" in an A-2 zoning classification as provided in the Decatur County Zoning Ordinance #1214 & #1210 to the required rear setback from 50' to 25' to build a pole type structure and a variance from the required 600' setback from the nearest dwelling to 350' from the nearest dwelling. The property is currently owned by Robert & Betty Jo Gold and is located at 1495 S CR 600 E, Greensburg in **Salt Creek Township**. **This request will be contingent upon the approval from the APC Board for rezoning from an A-1 zoning to an I-1 zoning classification**.

Paul stated that this decision tonight will be contingent upon rezoning at the APC Board. Shane **Kennedy**; (referencing a map) this is where our operation center is and it is right across the road, off of State Road 46. We have looked at a lot of areas to find a small building to fit our needs. A little bit about our expansion, this is my father's business and we have grown from 4 box trucks to 12 and a few cargo vans. We are at the point to needing more room. We are bringing in business from Louisville, Cincinnati and Indianapolis. We need our own home, we have leased from Steve Hockaden. The best opportunity is right here to keep it all in Greensburg, essentially we want to build a 75' building, nothing bigger, we just need space for parking our trucks and to work on them. The size we needed to justify building, we are needing variances. Paul; Krista, what pushes this into an industrial versus a business zoning? Krista; because of the truck parking and the shop. They want to do light maintenance on their trucks. **Paul**; that is something that we may, it would seem like this would be a push for industrial type zoning, an I-1 includes a lot of things that, if we could wrap our arms around this and contain what it could become, trucking would be on the light end of some of the things in the I-1 zoning. Shane; we were surprised by that too, we are just wanting to park some trucks and maintain our trucks, it seemed like a pretty big stretch for all of the things that the I-1, we are not producing anything out of this building. We are just providing a trucking service. Jay; so what is the stumbling blocks on the I zoning, because of the 350' to Mr. Wallpe's place and so forth, are we going to struggle with that? Was that supposed to be 1000'? **Krista**; 600'. **Jay**; I see they have pushed that building back in the corner by the other I zoning. Gary; the comprehensive plan has (inaudible)... Krista; it doesn't really call that area out. Jay; we are more toward the area of New Point on our comprehensive plan as far as industrial growth, we are going from this center section, basically more east if I believe what the map was. We jumped the interstate and did an I zoning for the Schwering Sawmill so we have I zoning just north of this property and just east of this property. Paul; what will become of the old facility? Shane; we will continue to have it be the operation center, all of the administrative, this is purely parking and maintenance. Jay; so the truck parked at the Hockaden property will move and the trucks that are parked at the operation center will.... Shane; perhaps our cargo vans but if we grow we will put them at the facility there. I want to make the actual (inaudible...) nothing but cars and stuff, the guys brokering out of there. Jay; would it be fair to say that the trucks won't be crossing the right of way line that they are currently passing now? **Shane**; yes, we will have everything cross and coming out onto 46 from the tracks? **Jay**; and there will be less parking in front of that store?

Shane; that is correct. Jay; that has been an ongoing problem, I have been on the APC for quite sometime and you have been on our radar. Shane; that is why Steve's place was perfect. It helped out as we grow. Jay; that was the only way to win win at the time, I think our county allowed that to improve safety and per the amount of complaints that we have received on that..... Shane; we don't want that, we have been doing the best with what we have. Because of your flexibility and Steve's opportunity we are now in the position to actually justify having our own home. Jay; what is the total acreage of this lot that you are looking at? Butch; 1.677 acres, I'm guessing. Jay; so you are basically going to gravel the whole thing? Butch; no, not necessarily, we will go around the building and then out front we will park. Paul; does that drain to the west or east along the railroad? **Butch**; to the west. **Jay**; what is going on on that acreage right now? Butch; nothing. Jay; I have been through there but I cannot remember what I saw there. That industrial zone, is it still active? **Butch**; yes. **Paul**; did the Newman's call in with any concern Krista? **Butch**; I talked to Izzy, he is cool with it. **Paul**; from a traffic standpoint he would be the one most affected by this. Shane; we have already paid \$1000 down to let them know that we want to buy this contingent on this plan, we would not have done that if Mr. Newman objected. **Paul;** that is fine, they did receive a letter, looking at the impact.... the only time you go to from what to me is probably appeal, which is low traffic to trucks in and out, your neighbors would be the ones to see the lights coming and going, the noise of the engines running at odd times, I have some sensitivity that these folks don't have large concerns, if they didn't approach us or send a letter or call then they probably carry as much weight in this as I have. Gary; we had had the opportunity to talk to Ms. Redelman, 2 things going on, one on 421 where the discussion was too close to the farm house on her dads place and the neighbors as well and the second is back to the east where she has things going on with refurbishing of those cars, I think what we have going on here as far as the I zone across the railroad track, along the highway makes sense. That's why I asked where we were on the Comprehensive Plan. Does this become the corridor on both sides of the highway or just one. So I have a unique sensitivity to this house on the corner, I know they had their opportunity to come to voice their concerns and I have been around the trucking business, it comes and goes all hours, that is just some of my..... Shane; 99.9% of our business is taking off in the morning. But there are trucks returning at all hours. **Joyce**; so are you suggesting that maybe we do have a letter put in there from the neighbor? Gary; I just want to call the sensitivity to what we have looked at before and what we are looking at now. It could be considered the same thing. That gives me a little bit of pause but at the same time they had their opportunity to speak and they are not here. Shane; and this is my word and I understand where you are coming from, we would not be here if we had not spoked to the neighbor. I also understand that anyone can say that. Jay; I don't think that her situation and this situation have very much in common to me. The thing that she was asking for, there was no industrial zoning in her area where she asking for it and to me that is spot zoning at it's very best. And I don't think that is necessary or needed out there, what makes this favorable to me is the past ten years that I have been around here, this has been an ongoing situation that has drawn attention, we have worked with it by trying to make Hockadens available and I think this is allows this operation to operate and become more friendly in our community and it butts up to another I zone. So that's where I sort of have kudos for you guys in going forward with this. I am sensitive to these homes and I think that their not saying anything, I'm sure Mr. Wallpe would be happier to have them over there instead of where they are. I think this is an

improvement and I can find a lot of problems with the other person trying to do compared to this situation. Gary; I agree with that. Paul; I'm fairly familiar with this area and it seems to me that it's a bit of a narrow road right there in front of Mr. Newmans, towards the west, should we find out that traffic maybe becomes a problem when meeting a full size pickup truck, that could become a pretty tight spot of road. Something that I would ask that if should the County decide to widen that area of road, a lot of that would be due to helping the flow of traffic in and out of your lot. I ask that you be sensitive to working with the County to maybe give them a little bit of room on that corner to maybe widen that so you can swing into your place should you become having combination vehicles and then the intersection does need to be made bigger. **Butch**; right at this moment all we have are 24' box trucks. Paul; I understand but you have tripled it in a few years though. Shane; I don't foresee that being realistic for tractor trailers. It is perfect for what we are doing. We have Stonebridge Trucking and I am going to create Stonebridge Express which will be the box trucks and cargo vans. I will have the brokerage and then when we get to a tractor trailer place I will have to be back here again at some point, or purchase some land.....Paul; it's not so much the tractor trailers, that is a tight spot and two full size pickup trucks meet there, it's just a narrow piece of road. Butch; we are coming off the road here (referencing paperwork) we may be coming in right here. We will also have another area, Mr. Mohr told me I could put this in and place a 6" culvert up to this point, he is happy about this. We are taking care of the problems. Paul; that would be an improvement if you could enter off of 600 E instead of 150 S..... Shane; it's a huge safety issue too, we are going to do this to try to make it fool proof to make sure that the trucks are getting in and out because we need to understand that cars will be using this and we have to be very careful. Jay; I think as soon as you can get on your property and not utilize that corner, I think that is a win win. Shane; we agree 100%. Gary; can we put a drive there that close to the railroad track? Paul; I'm unsure about that. Krista; that is a Mark Mohr question. And just so you know, this was originally laid out as Smith's Crossing so the county has a right of way. There will be plenty of room if they have to widen it.

Joyce Brindley made a motion to vote on BZA 2020-10; Janey Livingston seconded the motion with all 5 members voting yes.

BZA Petition 2020-7 – **Krieger Farms** / **Fred Krieger** is requesting a "**Permanent Special Exception**" in an A-1 zoning classification as provided in the Decatur County Ordinance #2530 to build a pond on his property and a "**Variance**" from the required 150' setback from a roadway to 50'as provided in the Decatur County Ordinance #2530 (1). The property is currently owned by the petitioner and is located at 9387 E CR 300 S, Greensburg in **Salt Creek Township**.

Fred Krieger; The roadway that we are talking about is 950 east and it dead ends about ¼ mile past 300 S. There used to be a residence there but is abandoned now. The long term goal is to build another house on our side but it would be located between 300 S and the pond. The only traffic that goes past that point is the farmer on each side of the road. If they build a home it would be before you get to the pond, so mail carrier services would turn around before they get to the pond. Paul; the two parcels that would be on south if that road were to continue, does that pathway continue down to where 350 would be or no? Fred; the roadway is still in there, 350 is

an open roadway all the way through, there is no way anyone would put a road in there. **Paul**; approximately how far away would the waters edge be from where the road is? Fred; we would like to get it up to the 50' which would give us more pond area. Jay; I have ran into this before, we've been challenged, and I can particularly remember the event well, the pond was being built and it was going to be fairly close to the road, tell me about the slope from the road elevation to the pond dam, is it going to be level with the road or elevated? What kind of grade is from the road to the top of the pond. Fred; the water level in the pond will have to be 4' lower than the roadway because there is a culvert that comes up there. Jay; what are you going to do, I understand the situation as you describe it today but the ponds last longer than most people. What are you going to do for public safety and we don't all know the answer, but what if someone builds after the pond, or some situation happens, what are we going to do to prevent people from entering the pond? Fred; what would you suggest? Jay; I would like the board to think about some sort of an earthen berm with a staggered row of trees or something that would put public safety maybe a little bit on the forefront here, it wouldn't affect your pond but there is going to have to be a give and take in this situation to get that pond that close to the road, and I not being there and seeing it like I had the other case that I'm talking about, in that case the road had a slight curve to it and we didn't want someone slide into the pond so we tried to come up with a solution. Fred; my preference would be a guard rail. Jovce; as long as you can stop the vehicle, and I understand where Jay is coming from, when I lived on 46 the pond was over 150' from the highway but a guy hit the fence and went right into the pond and drowned. I understand what he means, not that there is anyone who uses that road now but you don't know what is going to happen down the line. Fred; I understand that. We would in no way be opposed to a guard rail of some type. Jay; I'm thinking that is adequate too, tell me where you think the guardrail needs to be in relation to what you are thinking so I can have something to ponder. Fred; we need to keep it far enough from the road so farm equipment can go through so probably 10' off the roadway, it would drop off some, I would suggest a guard rail to be between 3'-4' from ground level. The length of the pond. **Joyce**; would that be tall enough? **Jay**; I feel like that is a reasonable solution to what I am asking for. Fred; will you have specifications for guard rail construction? Jay; well we have something in our ordinance regarding, it's either a staggered row of trees or a guard rail, I think we are allowed, we have that defined some place in the rules already. Krista; yes, it is. Jay; most of the time we don't have people willing to do this and the fact that you are willing to do this is good. Fred; I have no problem at all putting up a guard rail. Jay; so what is your definition of a guard rail? Fred; we would probably look for some used guard rail from the state highway department. Jay; so that is the style that you would be looking at? Fred; I would prefer to mount it on 6x6 wooden creosoted post in the ground. Jay; I think that is adequate, I'm pleased that the conversation is going like this. Fred; I don't necessarily want it open either, it only takes one car. Jay; we wouldn't be doing our due diligence if we are not asking these questions, we need something to protect to make up the difference from 50' to 150'. Krista can get you the information regarding the guardrail ordinance. If you can stay within that I believe that it will be adequate. Fred; we won't have any problem with that. Paul; we appreciate you working with us on that. Jay; what is the size of the pond? Fred; it won't be over 200' wide at the widest. Jay; I saw this petition and it's just one of those things I was thinking about. I appreciate your willingness to work with us.

Jay Hatton made a motion to vote on BZA Petition 2020-7; Gary Fischer seconded the motion with all 5 members voting yes. **Krista**; and that is with the stipulation that they will install a guard rail. **Fred**; and the water can approach 50' from the roadway? **Jay**; yes, no closer than 50' from the edge of the water to the edge of the roadway.

BZA Petition 2020-9 – **Vincent Yeager** is requesting a "**Variance**" in an A-2 zoning classification from the required side setback of 30' to a 19' to build a pole type structure. This request falls under Decatur County Ordinance #945. The property is currently owned by the petitioner and is located at 7057 W CR 1100 S, Westport in **Jackson Township**.

Paul Stone: Read a letter that was sent in from Jeanne Kroger-Prebeck, an adjoining property owner.

Vincent Yeager: We will build 8' from the house, our home is 1400 square feet, we have 3 boys and our garage is overwhelming. We need more garage space. I do sell cleaning supplies and have a box truck that I would like to store inside versus it being outside, this would prevent me from taking a heater out there in the winter and its vulnerable overnight. I need some storage. I was trying to go by the 30' but they would have to dig into my hill too much. Paul; approximately how tall of a structure are we talking about? Vincent; 14'. Paul; I assume that the 40' is the narrowest building that would sufficiently supply what you need from a space standpoint? Vincent; yes, it was going to give me the same amount of square footage. We were trying to make everything work. Paul; so the property as you leave the road and down your driveway, the property at the rear of your lot goes up, is that correct? A higher elevation. Vincent; yes. Jay; is that a fenced in back yard? Vincent; yes. Jay; it wouldn't fit in the back in the fenced in area? Vincent; we talked about that and we don't think it would work, we would run into issues on the backside. Jay; but you have an open field on the backside, right? Vincent; yes. Jay; do you know the distance from your property line from behind your house to your fence? Vincent; no. We tried to get it all figured out so that we wouldn't have to be here for a variance and it just didn't work out. Jay; but if it was started equal to your house and you took a little bit out of your fenced in yard and put a garage there, you could possibly keep your 30' setback on both sides. But that is not an option for you? Referencing a map to show where he may put it to meet setbacks. I know you would have a little bit of a drive to turn in to that garage, does that make sense? Vincent; my fence was expensive to put up and I don't know if I really want to mess with that. Gary; just as a possible information points on your question Jay, I took my google earth and measured from that corner of the house back to the corner of the picture and it is 113'. **Joyce**; what fence do you have to take down? **Paul**; the back yard is fenced in behind the house. (inaudible....) **Joyce;** the way I see it that (inaudible....) this other lady, what is..... Vincent; basically I don't know what her deal is, we have the whole back yard fenced in, she is like a good half acre away from us, she rents from her parents. She called in on us about our dogs claiming that they went to her house and made a mess on her front porch, I didn't think it was my dogs. My dogs are Boston Terriers and they are house dogs. Paul; the face of this 40' wide building. I assume that you have a layout from a door stand point, what you desire to put on the front of this, what is your layout? How far away would this 30' wide by 50' long building be away from serving your needs? Vincent; we just couldn't make it work

because we can't dig into my hill. Jay; so as you go north the hill is going up? Vincent; yes, the only way it flattens out is when it hits the other field. Jay; do you know how deep your fence is from the back of your house to your far fence line? What is the width of that? Vincent; probably 30'. Jay; even if you put your 40' x 40' building behind your fence without disturbing your fence you would have no need for any of these setback changes, the only thing you would have to do is build a driveway to your building. **Vincent**; so I have to put it behind my house? Jay; put it behind your house and behind your fence and then you can actually build it bigger. **Vincent;** It's not about the size it is just because I want my truck and box trailer inside. If I have to build a driveway I guess I could but I don't think it would look right on the backside. Jay; I'm just throwing this out there, I'm hearing a letter being written that they don't want you to be any closer to their property line any closer than what it says and you have property basically, what we can measure roughly we think that a building that big or bigger can fit in your back yard and not disturb any of your setbacks. I'm just throwing it out there to see if you would entertain putting it behind your fence. Vincent; I will have to carry all of my stuff out there further away versus having it right by the house. I see what you are saying but I don't know if that would really work out. When we were doing this planning, it seemed that every way we tried that we would have to get a variance so I don't know how it would work out today and not mess with the field in the back. Jay; it is our job to ask questions, we are just asking. How far away from the fence is your building that you said you were going to push it towards your neighbor because you wanted 10' between your fence and your barn? Vincent; it will be like 8' from the corner of the house, that is the closest we can get and then go 40' from there. Jay; do you know where the property line is? Vincent; yes. Jay; then you know it will exactly be 19'.... Vincent; yes. Jay; sometimes people come here and think they know where their property line is but then they don't. Then we vote on something that we don't even know about so I have to ask those questions. Gary; I called Krista today and asked a question, how close can we get to the house to build this, is there a rule on that? Krista; you could attach or get as close as you want but if closer than 6' to the overhang of the house then you have to put a fire wall at the house and the building. That means a fire rated door or no door at all or a window. Jay; If I was to say "could you move your building 8' to the north and 5' closer to your fence to give us 25" and then you just move the building 8' rather north and maintain that space that she is talking about, does that work? **Paul**; so you would be a 24' setback on the side. **Vincent**; can I see what you are saying? Jay showed his information on the map. Vincent; yes, I don't have a problem with that. **Jay;** I just love throwing out these ideas and seeing what works and what doesn't, it's a win-win for your neighbor and for you. Vincent; I do have a well right there (referencing map) close to that so we were past my well a couple of feet but if you are saying go back it will just get further from it. Jay; that is just what my suggestion would be. Vincent; I wish we could keep it the way we had it. **Paul**; so basically if your neighbor, this is some way to try to keep peace in the neighborhood. She will feel that there has been some sacrifice, some accommodation made to appease her concern but you are still getting the 40' wide building that you want to have and try and find a solution to everyone. Gary; so how do this if we adopt Jay's (inaudible).... Jay; well if he agrees to it then ... (inaudible). Vincent; can I ask something, I didn't understand some of her stuff that she put. Paul; her concern is the side of your building beside her that it would not become some sort of a visual thing to her I guess so the idea is that, especially when we encroach on property line, get closer to what the setback is in the zoning ordinance, the maintenance and

access to that building is maintained. So if you've got siding coming off you can get to that and repair that. Then is there becomes things stored next to the building, now all of a sudden when you need to access the side of that you will get onto someone else's property. **Gary**; are we going to be 24' or inside 30'? **Jay**; 30' is the setback and we will be 24'. **Gary**; towards the respondent, does she need to be notified if we change this that she still doesn't like 24'? **Krista**; no she does not. **Paul**; Mr. Yeager, is this something that you are ok with, amending your request. **Vincent**; yes. **Paul**; if we are going to make a motion the request would be altered, instead of a 19' setback it would become a 24' setback. Ms. Kroger gets a little bit of additional distance from her concern and Mr. Yeager is making an accommodation to that.

Joyce made a motion on 2020-9 with the change from 19' requested side setback to a 24' setback; Gary Fisher seconded the motion with all 5 members present voting yes. **Paul;** Mr. Yeager it is approved at 24' side setback, as you begin building keep that number known.

BZA Petition 2020-8 – **Donald Moore** requesting a "**Variance**" in an A-1 zoning classification from the required 70' front setback to 50' to build a single-family detached dwelling. This request falls under Decatur County Ordinance #945. The property is currently owned by the petitioner and is located at 3649 W CR 650 N, Greensburg in **Adams Township**.

Donald Moore: There was a mobile home on the site that was removed. I want to rebuild. **Paul;** where would the driveway be? **Donald;** it would be existing. They brought the utilities in front of the old mobile home and will put the meter on the property line on the west side. The utilities come down the driveway. It would be about 35' away from the property owner to the east, there is plenty of room to the west. The lower level of the property is in a flood zone. The variance I'm asking for is 50' instead of 70' is because of utilities. **Paul**; to the north, what is the slope of that? **Donald**; (inaudible) from the ground level, behind the structure that we need to put up. It's rockier up to that point. **Paul**; basically, you are being pushed towards the road due to a lot of excavation being required to move the structure away from the road. **Donald**; and the utilities. Jay; did you discuss this with the owner of the B2 property to the west? Donald; yes I have. I talked to Chris Hershberger, who is selling his property to Andy Niles and we talked over the weekend and the he only had an issue with a portable building down on the bottom right along the fence, he would like maintenance room on the fence. That is no problem, we can do that throughout the year. Jay; I talked to Andy as well and he said the you and he were going to discuss this so I'm happy to hear that. **Paul**; approximately from where that mobile home was before, the front face of that to this, will it be closer to the home by a small amount? **Donald**; it would be approximately 12' to the north of where the mobile home was. That's the only reason I kept it 24' instead of going 30' because of the hillside and utilities. **Paul**; with all of this terrain I as assuming that drainage won't be a problem? **Donald**; no. **Joyce**; did I hear you say this was in a flood plain? **Donald**; the lower level is. **Paul**; can you see the mobile home from the road? Donald; no.

Gary Fischer made a motion to vote on BZA 2020-8; Jay Hatton seconded the motion with all members present voting yes. **Paul;** your petition passes unanimously, thank you for coming in,

the girls in	n the office w	vill work	with you	and Kenny	will	work	with	you o	on your	inspectio	ons, s	stay
in touch w	ith the office	e.										

With no other business to be brought before the board the meeting was adjourned at 7:41 p.m.

	Decatur County Board of Zoning Appeal
	Secretary, Gary Fischer
	Secretary, Gary 1 isonor
	Decatur County Area Plan Commission
ATTEST:	
Paul Stone, President	Decatur County Board of Zoning Appeals