

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 3, 2017, at the Decatur County Courthouse. The meeting was called to order by Albert Armand. Andy Scholle, Roger Krzyzanowski and Joyce Brindley were in attendance. Also attending the meeting was Krista Duvall – Decatur County Area Plan Director, Debbie Martin – Administrative Assistant, Kenny Buening – Decatur County Building Commissioner, and Melissa Scholl, Attorney for the BZA and APC boards.

A copy of the meeting agenda and registrar of attendance is attached to these minutes and incorporated by reference. With no additions or corrections the board unanimously approved the April 5, 2017 minutes as mailed. Melissa School, Attorney for the BZA & APC Boards swore in the audience.

* **BZA Petition 2017-9 – Capital Telecom Holdings, LLC** is requesting;

- a. **Permanent Special Exception**: Build a wireless communication tower in an A-2 zoning classification. Decatur County Ordinance Section 925 (9)
- b. **Variance**: to the required side setback of 300 feet to 40 feet, and to the required front setback of 300 feet to 76 feet. Decatur County Ordinance Section 945 (5)
- c. **Variance**: to the maximum height allowed of 30 feet to 300 feet. Decatur County Ordinance Section 945 (1).
- d. **Variance**: to the required ability to house six (6) co-locate to only four (4) co-locates. Decatur County Ordinance Section 1510 (C).

Elizabeth Williams and Eric Hamilton Jones presented the petition and defined all of the reasons why they need the variances. This tower is pretty much the same as the other towers that we have facilitated in the Decatur County area.

Some of the boards questions were about the 6 co-locates vs. 4 co-locates and the possibility of adding co-locates in the future. It was stated that the 4 co-locate towers were becoming the common practice and that the towers were a smaller structure with the 6 co-locate towers being taller in height. Co-locates could be added in the future but it would take modifications to the towers. Also, it is common for telecommunications companies to first check the viability of using an existing tower as the cost is so much more to build the tower.

Audience member Angela Duerstock respectfully asked the board to consider moving the tower at least 300' from their adjoining property. Stated that she feared her property values would go down and that no one would want to build close to that tower. She also stated that she could not be guaranteed that if the structure were to collapse that it would not fall on their property. She said that she is not against the tower just that they did not want it right against her property line. Pictures were then presented showing various locations of towers and where they were located in fields. The board stated that those are older towers and that the newer towers have been requested to be moved out of the center of fields, to minimize the distance off of the roads, we

realize that in some areas it is not appropriate to build less than 300' off a road or side setback because of existing structures, power lines, etc. We understand your concern of having this right next to you.

When asked if the tower could be moved to 300' away, Elizabeth Williams stated that they had they have redesigned and move the towers in order to preserve the agricultural land, we have already gone through the rezoning and placement of this at the APC meeting last month. In order to get to this point, the due diligence, the FAA approval, all of that would change and we would basically be starting over. However, something that can be done is we can get from a registered engineer a fall zone letter stating that the tower will fall on itself within the boundary of the parent parcel. We could suggest that you could make that a condition of our approval.

After a bit of more discussion Roger Krzyzanowski made a motion to vote on BZA Petition 2017-9; Joyce Brindley seconded the motion. All members present voted yes.

* **BZA Petition 2017-10 – Donald & Linda Lecher** are requesting a **“Variance”** to the required side setback from 30' to 18' to from provisions of the Decatur County Zoning Ordinance Section Number, specifically **945 (5)** to place an addition on an existing pole barn. The property is owned by the petitioner and is located at 2722 S CR 850 E, Greensburg in **Salt Creek Township**.

Donald stated that they would like to add on to their existing pole barn so that he can park his RV. He stated that he has electric, good drainage and an existing driveway. When asked if he could put a lean to on one side or the other he stated no. It's only 12' tall the way it is. I cannot go east and west with it. I will have a door on the east side.

Roger Krzyzanowski made a motion to vote on BZA Petition 2017-10; Andy Scholle seconded. All members present voted yes.

* **BZA Petition 2017-11 – Matthew & Cynthia Slaven** are requesting a **“Variance”** to the required side setback from 30' to 5' and to the required rear setback from 30' to 10' from provisions of the Decatur County Zoning Ordinance Section Number, specifically **945 (5)** to build pole barn. The property is owned by the petitioner and is located at 3066 E Base Road, Greensburg in **Washington Township**.

Matthew stated that he would like to build where there is a current structure (20' x 20') which is 4' off the property line on the north side and 11' off the property line on the west side. The plan is to build it out no bigger than 36' x 60' or possibly 36' x 48' depending on what size building will fit in there. He presented a couple of letters from adjoining neighbors and also provided pictures which showed where he staked off his finger system for his septic and gave an explanation of what was where in the photos. When asked about building so close to the line if he would be able to maintain the building and he stated yes.

Albert stated that he would really like to have more than a 5' variance. Matthew stated that the existing was 4' now and the 5' would be farther away than the existing building is. **Board**; so is there any way to get more than 5' from the side setback? **Matthew**; there is but I would be crossing over my finger system. **Board**; and that is just one finger? **Matthew**; yes, and I have one that stops about 10' from the tree. If I shift the building then I would be interfering with that

one with the driveway and possibly the building too. **Board**; what size building are you talking about now? **Matthew**; ideally I would like to have a 36' x 60' but I know it would be cutting it close with that finger if I get the approved variance and a 36' x 48' I can work with that. **Board**; if you put in a 36' x 48' how much setback can you give us on the 5' request. **Matthew**; on the 5' side it wouldn't be much because it would be too close to the finger system for a 36' x 48' building. **Board**; if you went with our 30' variance and build a 36' x 48' building you would still would not be in the finger system. **Matthew**; no, but if I had to move it farther out across the property line then I would. **Board**; I'm not following. **Missy**; I think what he is saying is that the diagram that he provided represents 5'. **Board**; is that flag 40' off the property line or 70'? **Matthew**; no, it's marking just the corner of my building where it would sit. **Board**; for which size building? **Matthew**; 36' x 48' **Board**; if you put a 60' in there would the 60' go farther? **Matthew**; if it comes out farther it would be close to that, yes. **Board**; so you are saying that the 60' length would move the yellow flag of page 2 up to where the two or three white flags closer to the bottom of the picture? **Matthew**; yes, pretty much almost touching that finger system. **Board**; so those white flags are probably 40' or 50' off the property line? **Matthew**; I would say so yes. **Board**; does your building have to be 36' wide? **Matthew**; I would like for it to because we have a camper and several pieces of lawn equipment. I may also park my truck in there. **Board**; I would really like more than 5'; any way you can give us, say 8'? **Matthew**; if I do that it will definitely cross over my finger system. Like I said it's coming farther off the property line of the existing building. **Board**; we like to have room to drive a truck or pickup between the property line and the buildings. And you would like to put a ladder there that you can access the top of the building without being on the other property. It's going to be hard for guys to get in there and build that close to the property line without crossing over onto the neighbors, in my opinion. **Matthew**; I've spoken with several builders that said they would be alright to do that. **Board**; and you realize that if this fails, it fails? **Matthew**; oh yes sir. **Board**; I normally offer you to table that until we got a full board but I don't know how long that will be.

With no other comments from the board or audience Roger Krzyzanowski made a motion to vote on BZA Petition 2017-11; Joyce Brindley seconded. With 2 yes and 2 no votes, the petition failed to pass. It was asked of Missy what Matthew does with a tie. She stated that it has to have 3 to pass, it's a fail. Then she was asked if he gets to come back after we have a full board and she stated that he can come back with a new petition with different parameters.

With no other business to be brought before the board the meeting was adjourned at 7:30 p.m.

Respectfully submitted by Debbie Martin.

Decatur County Board of Zoning Appeal

Secretary, Roger Krzyzanowski

Decatur County Area Plan Commission

ATTEST:

President, Albert Armand

Decatur County Board of Zoning Appeals