

**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 6:33 p.m. on Wednesday, October 4, 2017, at the Decatur County Courthouse. The meeting was called to order by Albert Armand. There were four board members present. Absent was Roger Krzyzanowski. Also attending the meeting was Krista Duvall – Decatur County Area Plan Director, Debbie Martin – Administrative Assistant, Kenny Buening – Decatur County Building Commissioner / Inspector and Melissa Scholl, Attorney for the BZA and APC boards.

President Albert Armand 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 September 6, 2017 regularly scheduled BZA monthly meeting was approved as mailed.

Melissa Scholl swore in the audience.

**\* BZA Petition 2017-18 – Leising Excavating / Tom Leising** is requesting a “**Special Exception**”, in an I-1 zoning classification, to operate a mulching business with propane sales and erosion control product sales. This request falls under Decatur County Ordinance #1206. The property is owned by the petitioner and is located at 6876 E State Road 46, Greensburg, in **Salt Creek Township**.

Tom Leising stated that he needed to get rezoned to be able to sell the propane. Also could not have a residence on the property. We no longer rent the house, we want to do everything the county wants to be in compliance. It takes a while to get everything completed. Hopefully soon we will have the concreted covered. When the road grindings are down all of the big piles of pallets will be grinded weekly. I will put the finished product around the outside to block the view of the raw material. We will put retail sales in, will be concrete bunkers that will have all of the different products that we sell up by our office. IDEM was out last week doing our inspection and I asked him what kind of classification we would fall under with the mulch and the pallets and he said the pallets are considered a wood product and it would fall under saw mills. I asked him if it would fall under any industrial waste and he stated the pallets do not classify as industrial waste. I feel that it should fall under Section 1206 (F) Sawmills and processing of wood products. The pallets are wood and we are processing them into a finished product of mulch.

**Albert;** we talked about last month on the ordinance in Section 1206 (d) which is any salvage material. I think that most everyone would agree that if you take and recycle something that was used someplace else that that is a salvage product, you are no longer using it for what it was. I understand the sawmill part of it, the argument can be made for that, but I think the argument can also be made that these are salvage material that no longer fit their original use. When we think

about sawmill, they are starting with a raw log. With the pallets, you don't know if they have been soaked in oil or what materials may have been stored or spilled on that. That was part of my reasoning for calling this salvage material. If you are talking about tree limbs out of peoples yard, if that is the sole product that you are dealing with, which is kind of the original presentation when you first got the conditional use. I just want to you to understand where I come from when I look at this. I have seen crane mats, you talk about pallets, and some of the products suggest to me that there could be wood products that had some treatment. I don't know if you take in treated wood or not. I think there is still an argument to be made for the salvage materials. You said you were going to have a 4' berm around the property, is that correct?

**Tom;** actually it's probably around 6' tall. **Albert;** does that go all the way out towards 46?

**Tom;** everything slopes in from I74 about 6' and slopes back into the catch basins on the 46 side. The further you get back to our office, it's not sloped as tall but that is where we will have all of our retail. **Albert;** the berm does run along the property line all the way out to the edge of your property on 46? **Tom;** yes. **Albert;** are you charging to take these pallets in? **Tom;** no. It would be product for resale. **Albert;** how long do you think it will take you to get to the point that you have mulch all the way around there to some kind of sufficient depth, to block the view?

**Tom;** are you just wanting to block the raw pallets, is that what you are after, so that you cannot see the raw pallets after we bring them in? I need to understand what you want. **Paul;** your goal isn't to line the whole property, it is to use finished product to cover the perimeter of the stuff that is undiminished. Is that accurate? **Tom;** correct. **Albert;** what is the planned use for the rest of this property that will be covered with grindings? **Tom;** the opportunity came to get the material from the interstate, I want to take advantage of getting it to create a smooth work surface to work off of. If we keep growing, this space will allow for that growth. **Paul;** you feel comfortable saying that the retail product would cover up the product to be ground without any concern? **Tom;** yes. **Paul;** I will say the view from the interstate side looks good compared to a month ago. Joyce; I feel that way as well, I went past about a week ago on both the I74 and 46 side and I feel the same way you do. We appreciate your compliance with what we ask.

**Audience: Andy Scholle;** when you talk about the berm around the outer perimeter of your property, you say everything will be sloping back into your property. Were you going to put part of that berm with the millings of I74 and then cover, or will you whole berm be out of the mulch product? **Tom;** the road millings will be elevated along the outside perimeter and slope back in. We retain all of the water to use to dye our mulch. **Andy;** Albert, were you under the impression that he was going to put mulch around the berm or is he going to use the milling to berm?

**Albert;** I was under the impression that there would be mulch to cover up what he is grinding, that will be a secondary berm inside the outer berm of asphalt which you have raised 6' and is sloping in, right? **Tom;** yes, everything slopes in. **Albert;** so what you are grinding will be on the inside and there will be a berm of mulch around it high enough to cover up the raw, unprocessed product. So we will no longer see large piles of brush or pallets? **Tom;** yes. I even said last month that if I put an 8' tall fence around that property it's not going to block, with I74 and 46 elevated, it won't block the view. Same as at Burkhart's Salvage Yard, they have a fence around the property but you can look and see all the cars in the lot anyway. **Albert;** just like last month I will advise you that we don't have a full board, I will offer you the opportunity to either have a vote or to table this. **Tom;** what are the consequences you vote it down. I have been in the mulch business for 10 years. **Missy;** if it fails tonight it will be one year to reapply. Any operation on the property that is not permitted under the current zoning would not be permitted to continue. **Albert;** and that would be the mulch grinding and the propane sales. **Tom;** I guess it has been dragging on for a year, let's go ahead and vote on it.

Joyce Brindley made a motion to vote on BZA 2017-18; Paul Stone seconded the motion with 3 yes votes and 1 no vote. Motion passes.

\* **BZA Petition 2017-21 – Andy Scholle for Frank Hoban** is requesting a “**Variance**” to the required 1) side setback of 30’ to 20’, 2) side setback from required 30’ to 15’, 3) side setback from required 30’ to 15’, 4) side setback from required 30’ to 15’ from existing structures to divide the property. This request falls under Decatur County Ordinance #945 (5). The property is owned by the petitioner and is located at 7853 W CR 100 N, Greensburg in **Clay Township**.

Krista gave a letter of support from J & A Asset Management LLC. Albert read the letter in full.

Andy Scholle stated that the property is currently owned by Frank Hoban and his brother Joe Hoban. They are requesting these variances because they wish to separate the property so they each own their own home. As of now everything is titled in both of their names. The barns will be kept jointly together but on a separate parcel and the deeds will be in each of their own names, not jointly.

**Albert**; so the barn in the middle will be owned jointly? **Andy**; yes, owned jointly but on separate parcel and get rid of the line going through the barns. **Paul**; are both of those buildings in pretty good shape? I’m asking that the line be kept away from the building that would be there the longest and then at the end of the life of soonest building down, a new one can be constructed. Are both of them in a decent shape? **Frank Hoban**; yes they are. **Paul**; I think that you are doing the right thing. **Albert**; will there be room to operated equipment and do maintenance between the two buildings? **Frank Hoban**; yes.

Paul Stone made a motion to vote on BZA 2017-21; Janey Livingston seconded the motion with all 4 members present voting yes. Motion passed.

\* **BZA Petition 2017-22 – Dan Kinker for D D C & W Holtkamp Partnership** is requesting a “**Variance**” to the required setback of at least 1320’ from a church to a setback of approximately 814’ to construct a confined feeding structure. This request falls under Decatur County Ordinance Number #905 (11). The property is owned by the petitioner and is located at 3695 S CR 550 E, Greensburg in **Saltcreek Township**.

Dan Kinker with JBS United Environmental Services stated that the D D C & W Holtkamp Partnership are going through a modification of their current farming operation. They will be getting rid of the swine CFO. There will be 4 buildings that will be closed down and removed, 1 building is still in use. The intent is to transition from a swine production into a cattle operation. They would propose a cattle feeding operation with a 70’ X 210’ building which would be place within approximately 814’ from a church. The new cattle operation will be all solid manure on a concrete floor with 4’ concrete walls and all manure will be contained within the building. They have enough acres to handle any manure that will come from that operation. **Albert**; is this of the scale that requires an IDEM permit? **Dan**; the building, no. Part of the transition is they are currently exiting the IDEM program, and under the IDEM rules the new cattle operation will be 280 head so it will not fit the definition. **Albert**; does our ordinance give a good definition for confined feeding. **Krista**; I do not think so. **Albert**; that is what I was thinking. I was here when we updated our ordinance the last time and I feel certain that the general intent was that the confined feeding in the county be directed toward the commercial operation but I think at the

time we were using IDEM's rules. IDEM's definition of confined feeding is anything that is penned 45 days and fed not on pasture. **Dan**; and it would be 300 cattle or more or 600 swine or more. **Albert**; I commend the Holtkamp's for going through this, this is of the scale that for just a few more head you would require and IDEM permit. Krista gave Albert two letters of support, one from Smyrna Lutheran Church and the Smyrna Lutheran Cemetery. They were both in support of this petition. Albert read them in their entirety. He also stated that it was worth mentioning that these livestock buildings have been there for a long time and if it had been a problem I'm sure the church would have mentioned it. **Joyce**; I appreciate you coming here and asking us. **Paul**; there are no questions on my part, I think you guys have laid it out as best you can. From looking at the map you have gone as far away from the church as you can without getting any closer to a flood plain to the west. **Dan**; with the removal of the buildings and not knowing the topography at the time, that will be the closest that we will be. Ideally, once we level things out, it will likely be shifted more to the north as much as we possibly can to keep in that central area where the production has been for several years. **Audience: Gary Fisher**; I would like to compliment the Holtkamp's here for moving onto this situation, we're neighbors across from the church. On behalf of Dale Lange, my wife Patty and myself we compliment them on doing this. Also, on behalf of Farm Bureau we complement them in taking care of this and raising this up. We'd ask you for your positive consideration on this Mr. Chairman.

Paul Stone made a motion to vote on BZA 2017-22; Janey Livingston seconded the motion with all members present voting yes. Motion passed.

With no other business to be brought before the board the meeting was adjourned at 7:15 p.m.

Decatur County Board of Zoning Appeal

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Secretary, Joyce Brindley

Decatur County Area Plan Commission

ATTEST:

President, Albert Armand

Decatur County Board of Zoning Appeals