

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, September 6, 2017, at the Decatur County Courthouse. The meeting was called to order by Albert Armand. There were three board members present. Absent was Roger Krzyzanowski and Janey Livingston. Also attending the meeting was Krista Duvall – Decatur County Area Plan Director, Debbie Martin – Administrative Assistant 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 August 2, 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 stated that they have operated a mulch business for 9 years at his current location and recently started selling propane gas and was informed by the County that he needed to rezone to I-1 for that type of sales. We don't rent the home anymore, stopped that the first of the year. Last month I was to the APC Board to get rezoned to I-1 and they said I would have to come before the BZA to get a Conditional Use. We are here to get approval to keep operating. We are in the process now of getting the interstate road grindings to cover all of the concrete and getting the property to slope in to contain all of the water on our property. As soon as we get all of that completed we will get all of the piles ground down so it will look much nicer. It's been a growing process trying to get it all accomplished right now, that's why the piles are big right now.

Joyce; I was by there this week, I noticed it looks nice and is getting bigger. Glad no one lives in the house and I appreciate you coming in to the board. You are trying to comply and that really means a lot to me. It did look well. I appreciate that there is no one living in the house.

Paul; the visual barrier is something that I would like to ask about. Can we have clarification? We had mentioned Tom that an industrial property such as this require some sort of visual barrier, is it something that you are planning on adhering to that? Tom; we talked about it some, we have the concrete built up around 6' around the outside to slope everything in. The finished

product will be placed around the outside perimeter so it will be finished mulch. All of the raw material will be hid on the inside so you won't be able to see it. Once we get all the road grindings down we are going to grind the raw material down to keep it down in size. **Paul**; the way that it is worded is a line of staggered evergreens, a dirt berm or a fence. I don't know if need to get terribly critical about selecting what that is but I think the big concern is that the raw material is not visible. Whether that is a dirt berm or a berm that is presentable, as long as the raw material is kept hidden that would appease my concern. **Board**; and then that's where you're putting the concrete barrier so that you can't see that? **Tom**; right, the edge of all the concrete that is exposed right now is going to be covered with road grindings so it will be a nice product all the way around the whole perimeter so you can't see any of the raw material that we have built up right now. They are supposed to start the 22nd of this month but may be put back a little bit due to the rain. **Board**; I guess under *Section 1206 is as follow: storage or processing of any salvage materials including automobiles salvage and wrecking operations and industrial waste salvage operation. Said storage shall be shielded from view by means of sturdy, sight obscuring, eight foot high fence in good repair and two rows of alternate plant evergreen trees or like vegetation.*

This mulch operation is basically a salvage, you are salvaging wood products just like a scrap yard would salvage automobiles. So it calls for an 8' high fence and two rows of evergreen trees or like vegetation. You understand that is a requirement according to Section 1206? **Tom**; trying to put a fence up in the concrete and then the solid fill that we have, is it permissible if we put the berm with the finished product around that we cover all the raw material? **Board**; can he put a row of evergreens around the outside? **Tom**; trees won't grow. **Board**; I was concerned about hazardous waste too. The mulch is not hazardous, isn't it safe. **Board**; there is a section in the Zoning Ordinance for hazardous waste but that would be regulated under IDEM. **Krista**, do you have a thought on his question, it is real plain and it calls for an 8' high fence around the property. **Melissa**; I guess I'm confused, I just drove by on my way in tonight, what you are describing as the berm being created by the material, I'm not seeing that as anything remotely 8' high. Even if these grindings get in there, it has brought it kind of up to the road grade but I think what that is calling for is a barrier because I can see straight through out to I-74. There is nothing that obscures my view as I go by and what that is calling for is something that prevents us from seeing what is going on behind it. And the way it is now, it is not that way. I don't see that piling of the material is going to create that obscured view either because I don't think there is enough land to get that berm there. You have to have so much width to get to the right height. I don't think there is enough distance from the road to where the operation starts to get a berm with trees on it to meet the requirement, at least on the front side, along HWY 46. Maybe on the sides or the I-74 side you could do a berm. I'm thinking that the only option for the HWY 46 side is the fence, it will get you the height real fast with using little ground to get there. **Board**; also too would you agree with me when I say that some of those piles are a lot higher than the 8' fence. **Melissa**; right now, yes they are extremely high. If the operation gets to where he is indicating that it will and 8' fence as you are driving by will obscure quite a bit, other than maybe where the gate is. **Board**; I think that's what the ordinance calls for. The big thing is, you are going to have to have an 8' tall visual barrier, and it calls for a fence. As you read the ordinance, it calls for both a fence and alternating evergreens but I understand with the mulch it might be tough to get trees to grow where the mulch is at or has been. **Tom**; where our base is we cannot get a tree to grow on. If we put an 8' tall fence I don't feel it will block the view, the interstate is elevated up and with the road being elevated as well you will still be looking over the fence and see in, in my opinion. That's why I recommended taking the finished mulch product and build the berm around that where we can get it tall enough to block the view of the

raw material. The finished mulch product is not an eye sore. **Board**; so you are thinking that you would stack the finished mulch higher than 8'? Around the perimeter of the property? **Tom**; yes, around where we store the raw material. Like I said you will still see it, you look at Green Cycle and other mulch places in Indianapolis, they are all visible from the interstate and once we contain the raw material and get that down I don't think it's going to be an eye sore. We will keep the raw material in the center and keep that down, it will be a lot smaller pile and our finished material will surround the outside edge. **Board**; do you have a semi-trailer as a sign out next to the highway or has that been moved? **Tom**; it is moved, we store straw in it and have moved it, we pulled it along the side, you can still see it from the interstate but it's now parked along the side rather than as a billboard. **Board**; basically what this is trying to gain, I'll use Burkhart's wrecking yard as an example, as you drive down base road you don't see vehicles everywhere. I agree with what you are saying, in that you drive down the interstate and HWY 46 by the way the property lays, an 8' high fence probably isn't going to accomplish what it would in Burkhart's situation. I still will recommend or throw out there Tom that as many truckload of things that you are capable of moving in and out of there, I would love to see at the outer berm of that that you dress that with some kind of soil and try to plant some trees. That may be beyond feasibility of what I understand but I feel like as you drive down the highway and see some greenery it would just break up that eye line, do a better job and be less expensive than what the fence would do. I do think something needs to be done to break that eye line up and if you feel like you can tell me with some level of confidence that you won't see the salvage piles, which brings some comfort. As the seasons come and go and you have an opportunity to gain some by-product it doesn't seem like that would be a consistent block to me. **Tom**; the raw material piles will be down and it won't take much to block that. The finished product is not an eye sore, it's just the raw material and as I stated at the last meeting I hate how it looks right now. We are out of room to work and we knew we were getting these road grindings in so I didn't want to grind and have to continually move it to get the road grindings down. I wanted to get a solid base down and then grind and place the finished product there so we don't have to handle it again. I really do feel with the finished product around there and we keep the piles small, once we start grinding weekly as the material comes in we can handle it better. I'm concerned with how we are keeping that now but once we start grinding weekly it's going to make a difference on the appearance of the place. **Board**; out of all this area, how much do you anticipate being dedicated to piles of your raw material? **Tom**; probably 100 x 100 of the center of the property and then the finished product will be out around the outside edge. Right now the raw material is probably covering a 500 x 500 area or more. **Board**; why is the area of raw material going to decrease so much? Are you anticipating you running the grinder more? **Tom**; we will run the grinder more after we get the road grindings packed down. The piles got so big because we ran out of room to put the finished product. I don't want to get the concrete mixed in with the finished product. **Board**; well, a 100 x 100 doesn't sound like a whole lot of fence to me out of all that acreage. **Board**; we would be happier if you would put fence entries. The trees are going to grow and that would hide more and be grown over the fence after a while. **Tom**; I'm afraid that around the outside edge we have 6' of concrete and solid base, those trees are going to dry up, I really don't think you are going to get trees to grow, they will dry up and die. That's my biggest concern about the trees, I originally thought about trees. **Audience; Joe Stein** stated the he has experience where acreage has been subdivided and trees planted within 5' of the property line, in ten years they could grow and could cause trouble with farm equipment. If you could put some sort of restriction on the trees, either a small group of trees, not oak and maple but dogwoods or pine, those wouldn't grow to be 40'-60' tall, or a restriction from the property line like 20' if planted. Those are just some thoughts from the farmer's perspective. **Board**; do

you own the property next to him? **Joe Stein**; yes, to the west. **Board**; and you don't have any objection to what he is doing? **Joe Stein**; well, at this point.... **Board**; but you just wouldn't like to see big trees in there. **Tom**; and I see Joe's point too, I used to farm before and trees next to the field would shade his field and the crops don't do as well. **Board**; is the whole property going to be covered with road grindings? **Tom**; yes. **Board**; and how many acres are there? **Tom**; a little over 18. **Board**; I guess I have a concern about the fence, I would like to see an 8' high fence around the whole property. I think that the ordinance supports that but it is just my thought. **Krista**, is there anything that we as the board needs to do, this is the one property that I have had complaints about on a regular basis since we approved it. I don't want to create another list of complaints for others to come back to us. **Melissa**; 18 acres covered with road grindings, what is that going to do with water runoff? **Board**; that would be similar to an asphalt parking lot. **Tom**; we are containing all the runoff, we use all of that water for dying our mulch. We have underground piping throughout the whole property with catch basins. There will be an emergency overflow, a small pipe that would leave and head to HWY 46, it will not cross Joe Stein's property. **Board**; how are you containing that water flow? **Tom**; we are going to retain it. **Board**; are you building a berm so high around it? **Tom**; yes. **Board**; so out of concrete or grindings? **Tom**; out of the concrete and grindings. It's all going to be sloping back in, we have catch basins on the whole property. **Board**; how high is the berm that you are building? **Tom**; roughly 6' on the outside so we can slope back into the inside to meet our minimum fall back to the catch basins. **Board**; does either property on the sides of you require drainage through your property? **Tom**; we are at the high point and the water goes both directions off of our property. **Board**; and there's no tile running underneath to the adjoining neighbors off of your property? **Tom**; on the tile that we intersected when we put our storm drains in we capped all of them off because I didn't want any water leaving our property. I want to retain all the water that we can because we utilize every bit of water that we collect. **Melissa**; what level of rainfall will that system hold, or when does it hit the emergency overflow and head toward 46 and will that then be able to maintain that within the culvert or will it cause it to flood at that point. **Tom**; no it will not, we are putting all of our pipe in across 46, there will be less water leaving our property than what there ever was before. **Board**; and 4' high berm around the outside of asphalt would take hurricane rains to top that. **Tom**; I don't think it will ever go over the top of the berm on the outside. We are going to flood our property before anything else. Once it gets out of the catch basins it will only affect our property. We will have some standing water for a short period of time. **Audience – Jay Hatton** asked about the 2 septic systems on the site, I'm interested in where the finger systems go and how they behave with this catch basin type model. **Tom**; the septic system for the house is already abandoned, we pumped the tank and crushed it in. The state came out and looked at the system for the house and it would not support enough for a state approval. There was very little bit of leach lines there, we capped them off and abandoned them. The septic for the office is on the other side of the property where we never built up.

Albert; there are only three of us here tonight, you have to have all three votes positive to pass this. I'm giving you the option, as we normally do in this situation of waiting until we have a full board, or we can vote on it tonight, you have to have 3 yes votes. **Tom**; if you vote tonight and it doesn't pass then what? **Krista**; it would be a year before you can come back. **Joyce**; I really would wait just to be sure. **Albert**; so do you want to table this until we have a full board? **Tom**; yes. **Albert**; this will be on the October 4th Agenda.

* **BZA Petition 2017-19 – Jedidiah Ortman** is requesting a “**Variance**” to the required side setback of 30' to 15' for construction of a garage. This request falls under Decatur County

Ordinance #945 (5). The property is owned by the petitioner and is located at 1269 W CR 750 S, Greensburg in **Marion Township**.

Jedidiah stated that he had built a home, at the time could not afford the garage. He built the house with the intention of building a garage on the east side of the house in the future. The property was surveyed off, roughly 2 acres and now in order to build a garage he is too close the property line. The garage will be no less than 15' from that property line.

Board; how close if the corner going to be to the house? **Jed**; roughly 9' on the north end and about 26' on the south end. We are going to build the garage and connect the house with an enclosed breezeway. **Board**; is the other house gone? **Jed**; yes. The south side of the property slopes down. Drainage is not a problem, it is actually the best place to put the garage as it is the highest point of the property. Feasibly and economically it's the best place to put it. And I was thinking 30' from another property, not my own property. The garage doors will go toward the north side. **Board**; the old barn, is there cattle? **Jed**; I use the old barn when I bring in my new cattle. **Board**; the new garage is not going to interfere with the truck and trailers? **Jed**; no, we back in right there on the west side of the barn. We will be 50' from the barn to the garage so there is quite a bit of area there and the lane we use is 15' from the garage.

Albert; I will tell you that there is only 3 board members present and you need all 3 to vote yes, do you want to proceed? **Jed**; yes, I don't think one more person will make a difference. Yes, I am here to get this started. **Albert**; the LLC property around that is Ortman Acres, are you Ortman Acres? **Jed**; yes, Jedidiah and Allison Ortman own Ortman Acres.

Joyce Brindley made a motion to vote on BZA 2017-19; Paul Stone seconded the motion with all three members present voting yes.

* **BZA Petition 2017-20 – Samuel Fletcher** is requesting a “**Permanent Special Exception**”, in an A-1 zoning classification to build a pond. This request falls under Decatur County Ordinance #2530. The property is owned by the petitioner and is located at 3963 E Base Road, Greensburg in **Washington Township**.

Sam stated that he wished to build a pond on his property. **Board**; water drains from up towards the house? **Sam**; yes. **Board**; are you going to meet all of the setbacks from property lines and other houses? **Sam**; yes. **Board**; how high will the dam be? **Sam**; I believe Roger Wenning said 12'. **Board**; Roger is putting it in? **Sam**; yes, he went back there and shot it, it's about 40'-50' from the side of the property line. **Board**; it looks huge in the picture. **Sam**; it won't be that big, that was just an estimated drawing. **Board**; about how many acres do you have there? **Sam**; we have 7 acres. **Board**; and acre wise, do you have an idea how big the pond will be? **Sam**; right at an acre. **Board**; are you going to have a fishing pond for someone? **Sam**; no. **Board**; looks pretty straight forward.

Joyce Brindley made a motion to vote on BZA 2017-20; Paul Stone seconded the motion. Albert reminded Sam that there are only 3 members present and would require a yes vote from all 3, do you wish to proceed with the vote? Sam stated that he wanted to move forward. The roll was called and all three members present voted yes.

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:

President, Albert Armand

Decatur County Board of Zoning Appeals