

**PUTNAM COUNTY BOARD OF ZONING APPEALS
PUTNAM COUNTY COURTHOUSE, ROOM 202
Thursday, November 8, 2018**

MINUTES

The Putnam County Board of Zoning Appeals held its regular meeting on Thursday, November 8, 2018 at 7:00 p.m. in the Putnam County Courthouse, Room 202.

Jared Tully called the meeting to order at 7:00 p.m. followed by the Pledge of Allegiance.

Roll call was taken and a quorum was present.

Regular members present included: Tony Hodge, Al Ruebush, and Jared Tully.

Members absent: Patty Schiffour and Robert Stonestreet.

Staff present included: Timothy Smith, Melissa Sargent, and Lisa Powell.

Others present who signed in were: Kane Frye and Bill Goode.

MINUTES

The minutes of the September 13, 2018 meeting were reviewed. Motion was made by Tony Hodge and seconded by Al Ruebush to approve the minutes as presented. The motion carried unanimously.

VARIANCE REQUEST - KANE FRYE

Kane Frye submitted a variance request to allow a single family dwelling, which does not meet design standards for a Class A dwelling, to be placed at 209 Elm Street, Hurricane, WV (TM 230C, P 9.5). The property is zoned "R-1" Single Family Residential.

SPECIAL PERMIT REQUEST – KANE FRYE

Kane Frye requested a special permit to locate a single-family dwelling on a legal-nonconforming lot of record. The property is located at 209 Elm Street, Hurricane, WV (TM 230C, P 9.5) and is zoned "R-1" Single Family Residential.

Motion was made by Tony Hodge and seconded by Al Ruebush to combine the public hearings for the variance and special permit requests by Kane Frye. Motion carried unanimously.

Public Hearing

Jared Tully opened the public hearing for the variance request and special permit request submitted by Kane Frye.

Disclosure of Conflict

No board member disclosed a conflict of interest.

Staff presented the Summary, a copy of which is attached and made a part of these minutes.

A question and answer session followed.

Applicant comments: Kane Frye introduced himself and was available for questions.

Public comments: There were no comments.

Deliberation and Action

Discussion ensued with a question and answer session.

There being no further questions or comments, Jared Tully closed the public hearing and reconvened the regular meeting.

Motion to Adopt Factual Record

A motion was made by Al Ruebush and seconded by Tony Hodge to adopt as its Factual Record the staff summary report as well as the testimony given. The motion carried unanimously

VARIANCE - FRYE

Findings of Fact in Support of Decision for the Variance Request

The Board of Zoning Appeals made the following Findings of Fact with regard to the specific criteria set forth in the Zoning Ordinance:

1. The variance will not adversely affect the public health, safety, or welfare, or the rights of adjacent property owners or residents.
2. The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance.
3. The variance would eliminate an unnecessary hardship and permit a reasonable use of the land.
4. The variance will allow the intent of the zoning ordinance to be observed and substantial justice done.

Motion Approving Findings of Fact

Motion was made by Tony Hodge and seconded by Al Ruebush to approve the Findings of Fact based on the facts presented by staff, the testimony given, and the submitted application. Motion carried unanimously.

Motion for Board of Zoning Appeals Action

Motion was made by Tony Hodge and seconded by Al Ruebush to approve the variance request as presented. Motion carried unanimously.

Motion Approving Order

A motion to approve the order for the variance request was made by Al Ruebush and seconded by Tony Hodge. Motion carried unanimously.

SPECIAL PERMIT - FRYE

Findings of Fact in Support of Decision for the Special Permit

The Board of Zoning Appeals made the following Findings of Fact with regard to the specific criteria set forth in the Zoning Ordinance:

1. The Board found that the use will not discourage the development nor impair the value of the surrounding and adjacent land and use districts.
2. The Board found that the concentration and volume of vehicles in connection with the use will not be more dangerous or hazardous than the usual traffic of the use district.

3. The Board found that the proposed use will not produce a negative impact upon the abutting or surrounding properties and zoning uses given the characteristics, size, location, intensity and nature of the proposed use and any structure.
4. The Board found that the location, extent, arrangement and intensity of the proposed use is to be such that its operation will not be objectionable to adjacent and surrounding uses by reason of noise, smoke, dust, odors, fumes, vibrations or glare.
5. The Board found that the use, arrangement, and location of uses and structures are compatible with surrounding uses and zones.
6. The Board found that the use and structures are not detrimental to the health, safety and welfare of the locality involved.
7. The Board found that the use and structures conform to the purpose, intent and objectives of the Putnam County Zoning Ordinance.
8. The Board found that the proposed use is properly located in relation to any adopted master plan, general plan, land use plan, thoroughfare plan or street plan, particularly in its relation to existing collection and local street systems and pedestrian circulation.

Motion Approving Findings of Fact

Motion was made by Tony Hodge and seconded by Al Ruebush to approve the Findings of Fact based on the facts submitted by staff and the testimony given. Motion carried unanimously.

Motion for Board of Zoning Appeals Action

Motion was made by Al Ruebush and seconded by Tony Hodge to approve the special permit request as presented. Motion carried unanimously.

Motion Approving Order

A motion to approve the order for the special permit request was made by Tony Hodge and seconded by Al Ruebush. Motion carried unanimously.

REMOVE FROM THE TABLE VARIANCE REQUEST BY THE PAINT STORE

Motion was made by Tony Hodge and seconded by Al Ruebush to remove from the table the variance request by The Paint Store, LLC to allow roof signage. The property is located at 3501 Teays Valley Road, Hurricane, WV (TM 221, P 64.1) and is zoned "C-1" Suburban Commercial.

Public Hearing

Jared Tully opened the public hearing for the variance request submitted by The Paint Store.

Disclosure of Conflict

No board member disclosed a conflict of interest.

Staff presented an update on the status of The Paint Store variance request, a copy of which is attached and made a part of these minutes.

A question and answer session followed.

Applicant comments: There were no comments.

Public comments: There were no comments.

Deliberation and Action

Discussion ensued with a question and answer session.

There being no further questions or comments, Jared Tully closed the public hearing and reconvened the regular meeting.

Motion to Adopt Factual Record

A motion was made by Tony Hodge and seconded by Al Ruebush to adopt as its Factual Record the comments made by the applicant and the staff summary report from the September 13 meeting as well as the comments tonight made by staff. The motion carried unanimously.

Findings of Fact in Support of Decision

The Board of Zoning Appeals made the following Findings of Fact with regard to the specific criteria set forth in the Zoning Ordinance:

1. The variance will not adversely affect the public health, safety, or welfare, or the rights of adjacent property owners or residents.
2. The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance. The board found this criterion to be false as no special conditions exist and roof signage is not permitted in a C-1 zoning district.
3. The variance would eliminate an unnecessary hardship and permit a reasonable use of the land. The board found this criterion to be false because the hardship is not unnecessary and was created by The Paint Store.
4. The variance will allow the intent of the zoning ordinance to be observed and substantial justice done. The board found this criterion to be false because permitting a roof sign to remain would not allow the intent of the zoning ordinance to be observed.

Motion Approving Findings of Fact

Motion was made by Tony Hodge and seconded by Al Ruebush to approve the Findings of Fact. Motion carried unanimously.

Motion for Board of Zoning Appeals Action

Motion was made by Tony Hodge and seconded by Al Ruebush to deny the variance request due to insufficient and/or inaccurate information submitted by the applicant. Motion carried unanimously.

Motion Approving Order

A motion to approve the order denying the variance request was made by Tony Hodge and seconded by Al Ruebush. Motion carried unanimously.

CITIZENS CONCERNS

There were no concerns.

STAFF REPORT

Staff reported there is an agenda for the December 13 meeting.

OLD BUSINESS

Al Ruebush requested that the board be kept informed of any commercial projects in the county that do not require variance or special permit requests.

NEW BUSINESS

Jared Tully appointed Al Ruebush to form an officer nominating committee.

Staff made brief comments regarding the possibility of rescheduling regular monthly meeting dates in

order to accommodate the proposed changes to Planning Commission meeting dates. Mr. Tully requested that BZA meeting date discussion be added to the December 13 agenda.

ADJOURNMENT

There being no further business, motion was made and seconded to adjourn. The meeting was adjourned at 8:00 p.m.

Respectfully submitted: _____
Tony Hodge, Secretary

Minutes were approved: _____

Attested by: _____
Presiding Officer