

**PUTNAM COUNTY BOARD OF ZONING APPEALS  
PUTNAM COUNTY COURTHOUSE, ROOM 202  
Thursday, December 5, 2019**

**MINUTES**

The Putnam County Board of Zoning Appeals held its regular meeting on Thursday, December 5, 2019 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, Jessie Parker, Jr., Al Ruebush, Robert Stonestreet, and Jared Tully.

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

Others present who signed in were: David Alvis, Aaron Lawson, Tim Zima, Eric Collins, Terry Martin, Brice Hicks, Robert Smith, Jimmy Calhoun, Larry Wright, and T. J. Summers.

**MINUTES**

The minutes of the October 3 meeting were reviewed. Motion was made by Jared Tully and seconded by Tony Hodge to approve the minutes as presented. The motion carried unanimously.

The minutes of the November 7 meeting were reviewed. Motion was made by Al Ruebush and seconded by Tony Hodge to approve the minutes as presented. The motion carried unanimously.

**SPECIAL PERMIT – MARTIN’S PETERBILT OF WV**

Martin’s Peterbilt of WV submitted a Special Permit for New Construction request to develop a “Truck, Large and Trailer Sales, Lease, Rental, or Service” use in a “C-2” High Density Commercial District. The property is located at 236 N. Poplar Fork Road, Hurricane, Tax Map 213; Part of Parcel 32.

***Disclosure of Conflict***

No board member disclosed a conflict of interest.

***Public Hearing***

Jared Tully opened the public hearing for Martin’s Peterbilt of WV special permit request.

Staff stated a letter from Tom Susman of TSG Consulting had been received and that Mr. Susman had requested the letter be read into the record. Robert Stonestreet requested, due to the length of the letter, that it not be read and instead be marked as Exhibit A.

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: Terry Martin commented on the traffic impact study and stated the average

length of a repair for trucks was three days and trucks would not be continually coming in and out of the dealership. With regard to screening, Mr. Martin stated they would comply with the requirements. He also commented that approximately sixty percent of work would be completed with the bays down. Mr. Martin stated it was his intent to be a good neighbor and the economic impact on the community should be great.

Public comments: T. J. Summers questioned the process and stated it appeared there was important required information missing from the application. Mr. Summers asked that the hearing be tabled or postponed until all information had been properly received according to the Ordinance and timeframes within the Ordinance. Mr. Summers commented the Ordinance states a 30-day notice must be given – and even if it was a 15-day notice requirement, the traffic impact study and the packet to the BZA members was only provided three days prior to the meeting. Additionally, Mr. Summers expressed his concerns with the traffic impact study and stated the intersection at Route 34 was not appropriate for tractor-trailer traffic. Mr. Summers stated the geometry of the entire intersection should be modified to the fullest extent to maximize safety and not reduce the level of service on the intersection. Mr. Summers stated that no operation should take place as far as opening the facility until the permit process was properly completed. Mr. Summers additionally stated staff should have the ability to decide when a hearing is held dependent upon when information is received – not a partial, piecemeal approach. Mr. Summers stated it was well known there was a problem with the October meeting and the request was heard anyway. He further stated in order to justly serve the public and the applicant, it would be best to have all the information submitted and correctly follow the process – or do a text amendment and change the Ordinance.

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

### ***Deliberation and Action***

Discussion ensued with a question and answer session.

Robert Stonestreet expressed concern with the TIS being submitted the Monday before the Thursday meeting and the fact the public and board members did not have adequate time for review. He also stated the study acknowledges that trucks cannot enter and exit as the intersection currently exists and any changes must be approved by the Division of Highways. Mr. Stonestreet stated he would not be comfortable approving a special use permit for a business that needed a subsequent DOH permit before being able to operate trucks in and out of the facility. Additionally, Mr. Stonestreet stated concern with the fact that other necessary documents had not been submitted – the construction stormwater permit, the sewer and drainage information, and the screening plan – all required by the Ordinance.

Jared Tully commented that he shared Mr. Stonestreet's concerns. Additionally, Mr. Tully stated that supporting evidence had not been submitted in order to fully consider the factors for a special use permit, including the impact on surrounding properties. Mr. Tully stated this information was not submitted with the application and he was concerned this rendered the notice deficient with regard to the 30-day filing requirement in Article 1100.04(C).

Al Ruebush commented that he agreed with Mr. Tully's and Mr. Stonestreet's remarks.

Tony Hodge read from Article 1100.04(C), "Failure to timely submit any of the reports, covenants, deeds, plans, or other information will result in the continuance of the public hearing

to a later date, determined by the BZA, which will allow the BZA, County officials, or advisors to evaluate the reports, covenants, deeds, plans or other information in time for the hearing to take place.”

Mr. Tully stated that a continuance would be appropriate as it would preclude another fee having to be paid.

Jessie Parker questioned the ability to meet the 30-day notice requirement for the January 2 meeting if there were to be a continuance.

Timothy Smith stated a 15-day notice for special permits had always been followed and did not understand why a 30-day notice should be required now. Mr. Tully responded that it was required by the Ordinance. Mr. Smith stated that many other special permits had been approved with only 15-day notice and no one had ever questioned it in the past. He further stated that he believed it was unreasonable to wait until February for a continuance.

Al Ruebush asked what the Ordinance required. Mr. Tully stated that the Ordinance required a 30-day filing notice which was addressed in the letter submitted by TSG Consulting as well as by Mr. Summers. Mr. Tully stated the issue was the fact the Ordinance requirements must be met even if the difference in notice requirements was a typographical mistake. Mr. Tully further stated the Board could not ignore what the Ordinance stated.

Mr. Tully suggested this application be continued until such time as the Ordinance requirements were met and complete information had been submitted to staff.

#### ***Motion for Board of Zoning Appeals Action***

Motion was made by Robert Stonestreet and seconded by Al Ruebush to continue the Martin’s Peterbilt request until the January 2 meeting. Motion carried unanimously.

#### **NOMINATING COMMITTEE**

Al Ruebush stated there was no report until the January meeting.

#### **UPDATE ON KYLENE BROWN APPEAL**

Timothy Smith reported that the Planning Commission had approved a resolution directing him to not take any action regarding the appeal. Mr. Smith was asked to forward a copy of this resolution to the Board.

#### **CITIZENS CONCERNS**

Robert Smith submitted information, entered into the record as Exhibit B, regarding Permit #11077 issued to Frank Persinger for a mobile home on Beech Street in Hurricane. The permit states this home is a one-for-one replacement of an existing manufactured home. Mr. Robert Smith referenced Article 1800.03(D) and stated when a one-for-one replacement of a non-conforming structure occurs on a non-conforming lot the home must be placed back in the same location as the original structure. Mr. Smith also commented on 5 issues that are non-conforming to the Ordinance: 1) undersized, non-conforming structure; 2) undersized, non-conforming parcel; 3) no 20-foot setback; 4) no masonry or concrete perimeter enclosure; and 5) enlarged non-conformity. Mr. Smith stated Permit #11077 should never have been issued and the intent of the Ordinance was to discourage non-conforming structures on non-conforming parcels in Putnam County.

Timothy Smith stated the applicants had not withdrawn the special permit/variance requests but they no longer desired to place a second mobile home on the adjoining parcel. Timothy Smith

stated he had spoken with the property owner and the mobile home would be required to be placed back in the original position on the lot. Mr. Smith stated a letter would be sent to the homeowner requiring the home to be moved by April 30, 2020.

**STAFF REPORT**

Staff reported there was an agenda for the January 2 meeting.

**OLD BUSINESS**

There was no old business to discuss.

**NEW BUSINESS**

There was no further new business to discuss.

**ADJOURNMENT**

There being no further business, motion was made and seconded to adjourn. The meeting was adjourned at 8:15 p.m.

Respectfully submitted: \_\_\_\_\_  
Tony Hodge, Secretary

Minutes were approved: \_\_\_\_\_

Attested by: \_\_\_\_\_  
Presiding Officer