

**PUTNAM COUNTY BOARD OF ZONING APPEALS  
PUTNAM COUNTY COURTHOUSE, ROOM 202  
Thursday, February 7, 2019**

**MINUTES**

The Putnam County Board of Zoning Appeals held a special meeting on Thursday, February 7, 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, and Jared Tully.

Members absent: Robert Stonestreet.

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

Others present who signed in were: Jerry Elswick, Paul Niedbalksi, Gary Sims, Scott Schmidt, Justin Schmidt, Brent Irvin, Gary Sims, Jimmy Calhoun, Sarah McCallister, Mike Newton, and Ellis Conley.

**MINUTES**

The minutes of the January 10, 2019 meeting were reviewed. Motion was made by Tony Hodge and seconded by Al Ruebush to approve the minutes as presented. The motion carried unanimously.

**SPECIAL PERMIT REQUEST PUBLIC HEARING**

Motion was made by Jared Tully and seconded by Tony Hodge to reopen the public hearing for the special permit request by Wendschmidt WV, Inc. to construct a Wendy's fast food restaurant at 30 Pointe Place, Hurricane, WV 25526 (Tax Map 222E, Parcel 62). The property is zoned "C-1" Suburban Commercial District.

***Disclosure of Conflict***

No board member disclosed a conflict of interest.

Staff stated the February 7 special meeting had been advertised as required by State Code.

Motion was made by Al Ruebush and seconded by Tony Hodge to allow the applicant and the public the opportunity to rebut any comments made by either side. Motion carried unanimously.

Applicant comments: Scott Schmidt submitted information collected from the Putnam County Assessor's office, a copy of which is attached and made a part of these minutes, detailing assessed property values surrounding various fast-food restaurants in the vicinity of the proposed Wendy's site. Mr. Schmidt specifically referenced Sheetz at 3805 Teays Valley Road, Papa John's Pizza, and Little Caesar's Pizza on Teays Valley Road, stating home values surrounding these locations had consistently increased since being built. Additionally, Mr. Schmidt stated that local restaurants and shopping areas were necessary to build a community. Mr. Ruebush questioned Mr. Schmidt in regard to statistics related to property values at additional locations in the Teays Valley area that were not specific to the proposed Wendy's site. Mr. Schmidt stated that he did not have this information and the data he had submitted was in response to citizens' concerns regarding the potential decrease in property values surrounding the proposed Wendy's site. Mr. Ruebush stated that he believed it was equally important to determine if property values further away from the above mentioned restaurant locations may have increased at an even greater rate.

Mr. Tully inquired of Mr. Schmidt how the data had been collected and analyzed. Mr. Schmidt responded that one citizen had sent it to him and the values had been taken from the surrounding areas. Mr. Parker stated that the information was easily obtainable from the Putnam County Assessor's website and he had no reason to doubt the information Mr. Schmidt had presented.

Public comments: Ellis Conley commented on the County Commission minutes from September 11, 2018 and quoted one of the County Commissioners as saying, "Wendy's is going to go in there." Mr. Conley commented that it appeared the decision had already been made to allow the Wendy's restaurant at this location. He further stated that he appreciated the work the Board did to address public concerns. On behalf of the Fox Run residents, Mr. Conley requested the following: 1) the brightness of the lights in the parking lot be reduced; 2) appropriate screening be installed, not just at Wendy's, but along the entire property to restrict the headlights of drive-through traffic; and 3) a drainage analysis be conducted by a qualified engineer. Additionally, Mr. Conley commented that it was difficult to assess how property values were determined and a home that had not been on the market in many years would likely increase in price for a variety of reasons. He further stated that he hoped the Board could determine which properties that were mentioned by Mr. Schmidt would be appropriate to include in the discussion and which ones were not relevant.

Mr. Schmidt stated the following in reply to Mr. Conley's comments: 1) the lighting plan had already been approved and the brightness of the lights decreases dramatically from the building to the property line; 2) there will be screening for headlights, specifically a row of arborvitae evergreens which grow to a height of 10-12 feet and a width of four feet. There is currently an area of overgrowth adjacent to the site and there are no homes on the street directly behind the proposed location; 3) a drainage analysis has been completed and submitted to the Planning office. Also, previous drainage issues with runoff have been corrected.

Mr. Parker questioned how close the drive-through speaker would be located to the nearest home. Referencing the approved site plan, Timothy Smith stated that the distance appeared to be at least 200 feet.

#### ***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.

#### ***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 use will not discourage the development nor impair the value of the surrounding and adjacent land and use districts:

Motion was made by Jessie Parker, Jr. and seconded by Tony Hodge to find this criterion to be true based on the evidence submitted and there being no indication that property values would be impaired. Motion carried unanimously.

Motion was made by Jessie Parker, Jr. and seconded by Tony Hodge to rely on the Findings of Fact and the evidence presented in the January 10 hearing to determine whether or not the remaining seven criteria had been met. The motion failed.

2. 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:

Motion was made by Jessie Parker, Jr. and seconded by Al Ruebush to find this criterion to be true based on the fact the Division of Highways had required a turn lane to alleviate any possible issue. Motion carried unanimously.

3. 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:

Motion was made by Tony Hodge and seconded by Jessie Parker, Jr. to find this criterion to be true because all items addressed in the design process were within required guidelines. Motion carried unanimously.

4. 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:

Motion was made by Al Ruebush and seconded by Tony Hodge to find this criterion to be true due to the fact that all ordinances in regard to these items have been met. Motion carried unanimously.

5. The use, arrangement, and location of uses and structures are compatible with surrounding uses and zones because the use:

Motion was made by Jessie Parker, Jr. and seconded by Al Ruebush to find this criterion to be true based on the submitted site plan. Motion carried unanimously.

6. The use and structures are not detrimental to the health, safety and welfare of the locality involved:

Motion was made by Jessie Parker, Jr. and seconded by Al Ruebush to find this criterion to be true because there is no indication the use would be detrimental to the health, safety, and/or welfare. Motion carried unanimously.

7. The use and structures conform to the purpose, intent and objectives of the Putnam County Zoning Ordinance:

Motion was made by Al Ruebush and seconded by Tony Hodge to find this criterion to be true due to the fact that no information to the contrary was received by the Board. Motion carried unanimously.

8. 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 was made by Jessie Parker, Jr. and seconded by Al Ruebush to find this criterion to be met based upon the submitted site plan. Motion carried unanimously.

***Motion to Adopt Factual Record***

Motion was made by Jared Tully and seconded by Al Ruebush to adopt as its Factual Record the Findings of Fact from the January 10, 2019 meeting as reflected in the hearing transcript as well as the meeting minutes, comments received from the applicant as well as a member of the public, staff statements, and the packet submitted by the applicant marked as "Exhibit A." The motion carried unanimously

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

Motion was made by Tony Hodge and seconded by Jessie Parker, Jr. to approve the special permit request as submitted. Motion carried unanimously.

***Motion to Approve and Execute Order***

Motion was made by Jared Tully and seconded by Jessie Parker, Jr. that Mr. Tully be granted permission to state the Board had voted to grant the application. Mr. Tully amended his motion, stating the Board had voted to approve the application and authorized Mr. Tully to execute the order. Mr. Parker seconded the amended motion which carried unanimously.

**CITIZENS CONCERNS**

There were no concerns.

**STAFF REPORT**

Staff reported that Patty Schiffour had resigned from the Board and Jessie Parker, Jr. had been appointed to a full-time position.

**OLD BUSINESS**

Al Ruebush requested that a review of meeting procedures be placed on the March agenda.

**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 8:00 p.m.

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

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

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