

**PUTNAM COUNTY BOARD OF ZONING APPEALS
PUTNAM COUNTY COURTHOUSE, ROOM 221
Thursday, April 12, 2018**

MINUTES

The Putnam County Board of Zoning Appeals held its regular meeting on Thursday, April 12, 2018 at 7:00 p.m. in the Putnam County Courthouse, Room 221.

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.

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

Others present who signed in were: Shane Wagner, Stacey Wagner, and Rick Parsons.

MINUTES

The minutes of the March 8, 2018 meeting were reviewed. Motion was made by Al Ruebush and seconded by Tony Hodge to approve the minutes as presented. Motion passed unanimously.

SPECIAL PERMIT REQUEST

Disclosure of Conflict

No board member disclosed a potential conflict of interest with the Special Permit request by ZXM Brands, Inc. (Shane & Stacey Wagner) for Marco's Pizza to become a restaurant which serves alcohol. Marco's Pizza is located in Mid Valley Square, Hurricane, WV (Tax Map 222, Parcel 26). The property is zoned "C-1" Suburban Commercial District.

Public Hearing

Jared Tully opened the public hearing for the Special Permit request by ZXM Brands, Inc. (Shane & Stacey Wagner) for Marco's Pizza to become a restaurant which serves alcohol. Marco's Pizza is located in Mid Valley Square, Hurricane, WV (Tax Map 222, Parcel 26). The property is zoned "C-1" Suburban Commercial District.

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

A question and answer session followed.

Applicant comments: Stacey Wagner thanked the board for considering her request. Additionally, she stated that the application for the sale of alcohol was made based upon customer requests for beer to be available while dining in the restaurant. Ms. Wagner stated that sales would be closely monitored and that no outside sales would be permitted. Shane Wagner, Ms. Wagner's husband, responded to an inquiry regarding the type of alcohol to be sold and stated that bottled or canned beer would be available and that wine may be added to the menu in the future.

Public comments: Rick Parsons, 9 Ellis Drive, questioned whether or not the request was for beer only or would include other types of alcohol. Mr. Parsons stated that his property was located behind Marco's Pizza and had concerns regarding the possible expansion of operating hours as well as outdoor patio service.

Deliberation and Action

Discussion ensued with a question and answer session.

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

Motion for Board of Zoning Appeals Action

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

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 Board found that the use will not discourage the development nor impair the value of the surrounding and adjacent land and use districts due to the fact that the restaurant is located in an area with similar businesses which sell alcohol.
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 because adding the sale of alcohol will not increase traffic.
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 because of similar surrounding businesses.
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 because the requested use will not be conducted outdoors.
5. The Board found that the use, arrangement, and location of uses and structures are compatible with surrounding uses and zones because the restaurant is located in an area with similar businesses.
6. The Board found that the use and structures are not detrimental to the health, safety and welfare of the locality involved because the proposed use will have no bearing on these criteria.
7. The Board found that the use and structures conform to the purpose, intent and objectives of the Putnam County Zoning Ordinance because the requested use fits within an area designed for the requested use.
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 because the use is similar to existing businesses as described in the Comprehensive Plan.

Motion Approving Findings of Fact

A motion was made by Al Ruebush and seconded by Tony Hodge to rely upon the record and discussion of the board in lieu of making a second finding of fact. The motion passed unanimously.

An amended motion was made by Al Ruebush and seconded by Tony Hodge to approve the special permit with the following conditions as recommended by staff:

- Business shall be conducted within an enclosed building, except that meal service may be provided on an outside patio, provided that the patio is no more than 1/3 the floor area of the entire use.
-
- Amplified live performances shall not be permitted.
- Business shall not be conducted on the premises between 12:00am (Midnight) and 7:00am.

- All bars, taverns or restaurants servicing alcohol shall be licensed to operate under the laws of the State of West Virginia.

The motion passed unanimously.

Motion Approving Order

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

CITIZENS CONCERNS

There were no concerns.

STAFF REPORT

There was no report.

OLD BUSINESS

There was no old business to discuss.

NEW BUSINESS

The minutes were corrected as follows:

Al Ruebush requested that an item be placed on the next meeting agenda to discuss revisions of procedure for Special Permits and Variances.

ADJOURNMENT

There being no further business, motion was made and seconded to adjourn. The meeting was adjourned at 7:40 p.m.

Respectfully submitted: _____
Tony Hodge, Secretary

Minutes were approved: _____

Attested by: _____
Presiding Officer