

**PUTNAM COUNTY
BOARD OF ZONING APPEALS
PUTNAM COUNTY COURTHOUSE, ROOM 202
Thursday, January 10, 2008**

MINUTES

The Putnam County Board of Zoning Appeals held its regular monthly meeting on Thursday, January 10, 2008 at 7:00 p.m. in the Putnam County Courthouse, Room 202.

Tom Reishman, vice president, called the meeting to order. Mr. Reishman explained that Steve Sluss, president, would be late for the meeting, and he will turn the meeting over to Mr. Sluss when he arrives.

Roll call was taken and a quorum was present.

Members present included: Patrick Donovan, Tom Reishman, Al Ruebush, and Steve Sluss (arrived after roll call at 7:10 p.m.).

Members absent included: None.

Staff present included: Sandy Mellert, Melissa Sargent, and Linda Bess. Also present was Luanne Jividen, C.C.R.

Others present who signed in were: Derek Altizer, Wendy Altizer, Larry Hoylman, Bill Keaton, David Hoy, Dale Withrow, Ralph Cobb, and Christian Wells.

MINUTES

The minutes of the November 8, 2007 meeting were reviewed. Motion was made by Al Ruebush and seconded by Patrick Donovan to approve the minutes as presented. Motion carried unanimously.

Motion was made by Patrick Donovan and seconded by Al Ruebush to change the order of the agenda and discuss the violation prior to the scheduled public hearing.

VIOLATION REPORT - River Cities Food Mart of Winfield

Staff reported the following regarding the violation for River Cities Food Mart of Winfield, BZA Case BZASPC 2007-05:

1. The BZA denied the special permit request for River Cities Food Mart of Winfield at the November 8, 2007 BZA meeting.
2. Mr. Muncy, business owner of River Cities Food Mart of Winfield, was advised in writing of the denial and that the decision could be appealed to Circuit Court within thirty days.
3. Mr. Muncy was advised by staff that the Board of Zoning Appeals did not feel the use was inappropriate at this site; they denied the request due to a safety concern with vehicles and equipment being parked within the twenty (20) foot front setbacks on Routes 34 and 35. He was advised that if he submitted a revised site plan that met the requirements in the zoning ordinance for parking, the matter could be resubmitted to the

Board of Zoning Appeals.

4. Mr. Muncy did not appeal that decision within 30 days.
5. Mr. Muncy did not submit a revised site plan showing adequate areas for parking the UHAUL vehicles and equipment.
6. After the 30-day appeal period was over, a letter was hand delivered to Mr. Muncy advising him that the appeal period was over and he must comply with the decision of the Board of Zoning Appeals.
7. An inspection on Friday, January 4, 2008, found UHAUL vehicles and equipment still at River Cities Food Mart of Winfield at the intersection of Routes 34 and 35 in Winfield.
8. Staff spoke to Mr. Muncy and he would not commit to a plan to remove the UHAUL vehicles and equipment.
9. Staff presented an interoffice memorandum from Jennifer D. Scragg, County Attorney, explaining zoning enforcement allowed under W.Va. Code §8A-10-1.

Mr. Steve Sluss arrived at 7:10 p.m. He stated he was familiar with the facts and was prepared to take action.

Discussion followed with a question and answer session. Discussion included the following facts:

1. The applicant was afforded every due process right.
2. He disregarded a duly and properly enacted ordinance the County Commission has put in place.
3. There was no appeal of the decision.
4. He did not submit a revised site plan showing adequate parking areas.
5. A hazardous condition still exists with the parking of vehicles and equipment too close to the roads.
6. There does not seem to be any intent on the part of Mr. Muncy to comply with the decision made by the Board of Zoning Appeals.

Motion was made by Al Ruebush and seconded by Steve Sluss to recommend an injunction be instituted against Mr. Muncy and the business at Routes 35 and 34. Motion carried unanimously.

Motion was made by Steve Sluss and seconded by Patrick Donovan for staff to research fines of this nature and, based on that research, request that County Commission also assess a fine for this violation. Motion carried unanimously.

Tom Reishman turned over the meeting to Steve Sluss, president.

PUBLIC HEARING PROCEDURE

Steve Sluss gave a brief description of the rules for a public hearing.

VARIANCE REQUEST BY Derek and Wendy Altizer

Disclosure of Conflict

No board member disclosed a potential conflict of interest with the request by Derek and Wendy Altizer to allow a 10 foot front setback instead of the required 20 foot front setback to develop Teays Medical Facility in Station Place Subdivision.

Public Hearing

Steve Sluss opened the public hearing for the request by Derek and Wendy Altizer to allow a 10 foot front setback instead of the required 20 foot front setback to develop Teays Medical Facility in Station Place Subdivision.

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

Staff also presented photographs from abutting land owner, Kim Cremeans, showing the drainage ditch and the closeness of the property line between her property and the Altizer property.

A question and answer session followed.

Applicant comments:

Dale Withrow, representing Chapman Technical, engineer for the Altizers, was sworn in and requested approval of the variance based on the geotechnical analysis and the need to move the building away from the drainage ditch in order to provide a more stable foundation for the building. He also stated that it would be beneficial to the community in general.

There were no public comments.

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

Deliberation and Action

Discussion ensued with a question and answer session.

Facts determined during deliberation:

1. the permit was approved with the original setback
2. a smaller building could be built to meet the setback
3. if the building could be moved 10', a green space would be established in that 10' area, which would be beneficial to the site and neighbors
4. other buildings on Station Place Drive which were constructed since the adoption of zoning have a 20' setback
5. the applicant stated that regardless of the variance decision the building would remain 60' x 90'
6. soil complications are common to the Teays Valley area and should have been predetermined by an analysis prior to purchasing the property
7. the situation is not unique due to the fact that it was a vacant piece of property and the building could have been designed to meet the regulations
8. at the time of purchase, the amount of building space was a known factor
9. site issues are peculiar
10. the hardship was self-created and the variance request is for the convenience and economics of the developer
11. the geotechnical analysis was done in August prior to the purchase of this property
12. the property was vacant and flat at the time of purchase
13. this is the only vacant lot on the west side of Station Place Drive in Phase II of Station

Place

14. the timeline; this situation existed from the beginning
15. no opposition was received
16. drainage easements exist on two sides of the lot and according to Chapman Technical, a water course exists on three sides of the property
17. since the lot is located on a straight road, there should not be sight distance problems
18. moving the building 10' to the east will keep the drainage course from being relocated closer to the residential subdivision to the west
19. larger footers, a retaining wall, and additional work to the drainage course will not be necessary if the building is moved 10' to the east

Steve Sluss, president, reopened the public hearing in order to hear further comments by the developer and engineer.

Bill Keaton, Chapman Technical, was sworn in and explained that the dimensions of 60 x 90' for the building have been locked in since May due to the requirements of the physical therapy facility and the pool required for therapy that will be located in this building.

Mr Altizer was sworn in and explained that the size of the building was locked in prior to purchase due to the square footage requirement of the lessee on the second floor and unless the variance is granted, they will have to relocate the drainage course, moving it closer to the residential development to the west.

Steve Sluss, president, closed the public hearing for the second time.

Extensive discussion followed.

Motion was made by Patrick Donovan and seconded by Steve Sluss to approve the variance request by Derek and Wendy Altizer to allow a 10 foot front setback instead of the required 20 foot front setback to move the commercial building in Teays Medical Facility in Station Place Subdivision ten feet to the east. The motion for approval was based on the following facts: 1) Lot 9 is unique in that it is the only remaining lot on the west side of Station Place Drive in Phase II of Station Place subdivision, 2) as stated by Chapman Technical during the meeting, the drainage easements are located on two sides of the lot with a watercourse located on three sides of the property, 3) the additional green space would be beneficial to the abutting properties, and 4) no opposition was received by abutting landowners or the general public. Motion carried with a 3 - 1 vote.

CITIZEN COMMENTS

There were no citizen comments.

STAFF REPORT

Staff reported that there is an agenda for the February 14, 2008 meeting, which will include the election of officers for 2008; therefore the nominating committee needs to have a slate ready for that 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 8:05 p.m.

Respectfully submitted: _____
Al Ruebush, Secretary

Minutes were approved: _____

Attested by: _____
Presiding Officer