

# **PUTNAM COUNTY BOARD OF ZONING APPEALS**



## **A CITIZEN'S GUIDE**

**Prepared by**

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## **What is the Putnam County Board of Zoning Appeals “BZA”?**

The BZA is a lawmaking body of five citizens appointed and confirmed by the County Commission to hear issues which challenge the Zoning Ordinance for the Zoned Unincorporated Areas of Putnam County, West Virginia. The zoning ordinance outlines specific regulations regarding land use within the zoned areas of the county.

The zoned areas are the Teays Valley area served by Putnam Public Service District and the US Route 35 Corridor. Maps of the zoned areas may be viewed by visiting the Putnam County Office of Planning and Infrastructure at the County Courthouse in Winfield.

## **Who serves on the BZA?**

The five members of the BZA are appointed by the County Commission and are volunteer citizens. All members must reside in the zoned areas of the county and at least three members must have been a resident of the zoned areas for at least ten years and no member may be a member of the Planning Commission nor hold any elected or appointed office with the County. The term of office on the Board is three years.

## **What does the BZA do?**

The BZA hears issues involving variances to the zoning ordinance and special permits. The Board also hears administrative appeals of zoning decisions made by the director of the Office of Planning and Infrastructure. Each of these issues is described below.

- ▶ *Variance*: a request to deviate from the zoning ordinance requirements for building setback, height, parking, etc. For example, an odd shaped lot on which the enforcement of normal setback requirements might preclude building a house may justify a variance. Financial hardships do **not** justify a variance.
- ▶ *Administrative Appeal*: disagreement with a decision made by the director of the Office of Planning and Infrastructure in his/her enforcement of the zoning ordinance.
- ▶ *Special Permit*: a permit for an allowed special use in the zoned area.

At meetings, the Board makes final decisions for these three issues based on findings of fact.

## **What does the BZA consider when it makes a ruling?**

When considering a *variance*, the BZA examines the proposal to ensure that:

- ▶ There are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions, and not circumstances or conditions generally created by the provisions of the zoning ordinance in the neighborhood or district in which the property is located;
- ▶ Because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;
- ▶ Such necessary hardship has not been created by the applicant;
- ▶ The variance will not allow a use not permitted under the zoning ordinance;
- ▶ The variance will not alter the essential character of the neighborhood or district in which the property is located, not substantially or permanently impair the appropriate use or development of adjacent property, not be detrimental to the public welfare; and
- ▶ The variance will represent the minimum variance that will afford relief and will represent

the least modification possible of the regulation in issue.

In granting any variance, the BZA may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the zoning ordinance.

When considering an *administrative appeal*, the BZA may reverse, affirm, or modify a decision made by the director of Office of Planning and Infrastructure, who is charged with the enforcement of the zoning ordinance.

When considering a *special permit*, the BZA shall take into consideration the following standards:

- ▶ The use will not discourage the development or impair the value of the surrounding and adjacent land and use district(s);
- ▶ 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;
- ▶ The proposed use must 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;
- ▶ The location, extent, arrangement and intensity of the proposed use shall 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;
- ▶ The use, arrangement of and location of uses and structures must be compatible with surrounding uses and zones or must be capable of being made compatible through the imposition of conditions;
- ▶ The use and structures must not be detrimental to the health, safety and welfare of the locality involved;
- ▶ The use and structures must conform to the purpose, intent and objectives of the Zoning Ordinance; and
- ▶ 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.

For all three issues, the BZA's decision must be based on findings of fact that demonstrate:

- ▶ Public interest is protected;
- ▶ A granted appeal is based on a special condition;
- ▶ Literal enforcement of the provisions of the ordinance would result in unnecessary hardship. A hardship consideration should not be applied if an individual places a hardship upon himself;
- ▶ The spirit of the ordinance, the Teays Valley Land Use Plan, and the Planning for Prosperity in Appalachia: US35 Corridor Management Plan shall be observed; and
- ▶ Substantial justice is done.

### **When does the BZA meet and how is an item placed on the agenda?**

The BZA meets on the second Thursday of the month at the Putnam County Courthouse, room 202, at 7:00 p.m. In order to be placed on the agenda, an application must be made by 4:00 p.m. forty-one (41) days prior to the meeting date for variances and administrative appeals and thirty (30) days prior to the meeting date for special permits. This early deadline allows time for application review, advertisement, and adjacent property owner notification. Since the application process differs among the issues, a pre-application appointment should be scheduled with the director of the Office of Planning and Infrastructure, who acts as enforcement agent for the zoning ordinance.

At this appointment, the applicant will be provided the necessary forms and information regarding site plan requirements and filing fees. All requirements must be completed by 4:00 p.m. forty-one (41) days prior to the meeting date for variances and administrative appeals and thirty (30) days prior to the meeting date for special permits, so the pre-application appointment should be scheduled well before that deadline. Pre-application appointments may be made by visiting the Office of Planning and Infrastructure, County Courthouse, or by calling 304-586-0237.

Once application materials have been submitted, the issue will be published in a legal advertisement in the Charleston Daily Mail newspaper thirty (30) days prior to the public hearing for variances and administrative appeals and fifteen (15) days prior to the public hearing for special permits. Notices of the application and date of the public hearing will be mailed to surrounding property owners and homeowners associations.

### **What happens at the public hearing?**

At the BZA meeting, each applicant is required to be present either in person or by a representative. All public hearings are recorded by a certified court reporter and are open to the public. The following procedure is standard in handling a case before the Board:

- ▶ The President of the Board opens the public hearing.
- ▶ Staff provides a summary of the case.
- ▶ The applicant or representative is asked to step forward, state his/her name and address for the record and be sworn in.
- ▶ The President asks the applicant to explain what they are requesting and why the Board should approve the application.
- ▶ Drawings, photographs, site plans, etc. are introduced into the record as exhibits.
- ▶ The Board questions the applicant.
- ▶ The President asks for comments from anyone wishing to speak in favor of or against the issue.
- ▶ The public hearing is closed.
- ▶ The Board deliberates and then votes to approve or deny the applicant's request based on findings of fact.
- ▶ Every decision of the BZA may be appealed within 30 days to Putnam County Circuit Court.

To receive more information about the Putnam County Board of Zoning Appeals, or to express interest in becoming a member of the BZA, call 586-0237 or visit us on our web page at:

**<http://planning.putnamcounty.org>**

Also, the current Zoning Ordinance (formatted in PDF) may be found on the above website.