

Culver Board of Zoning Appeals

Culver Town Hall

May 17, 2018 6:30pm

1. Pledge of Allegiance
2. Roll Call
3. Approval of April 19, 2018 minutes
4. Petitions:

2018-002B: Gary and Carolyn Craig, 344 West Shore Drive, Culver. A continuance from the April 19, 2018 meeting.

2018-003B: James Easterday on behalf of James E. and Peggy A. Kemmler, 1394 East Shore Drive, Culver. A continuance from the April 19, 2018 meeting.

2018-004B: Louis Curtis, 17078 18B Road, Culver. A continuance from the April 19, 2018 meeting.

5. Old Business
6. New Business
7. Building Commissioner's Report
8. Next meeting if necessary – June 16, 2018
9. Adjourn

Culver Board of Zoning Appeals

Minutes: May 17, 2018

Dan Adams called the meeting to order and led the Pledge of Allegiance to our Flag

The Culver Board of Zoning Appeals met in a called session with the following in attendance; Dan Adams President, Bill Harris Vice-President, John Helphrey Secretary, Margaret Dehne, Patrick Jensen and Chuck Dewitt Building Commissioner.

Mr. Adams requested a motion to approve the April 19 th Minutes. Motion to approve carried unanimously 5-0.

2018-002B: Gary and Carolyn Craig, 344 West Shore Drive. Originally heard on 4-19-2018 requesting four variances for a non-conforming structure and lot. Petition was tabled until tonight due to the Craig's not providing current detail for the new structure and the Board did not have their full compliment of members.

Mr. Dewitt requested permission to speak first. He referenced the following from Chapter 8 page 144 third paragraph from the Ordinance Manual; **should such non-conforming structure or non-conforming portion of a structure be involuntarily destroyed by any means, it may be rebuilt on existing lines.** Mr. Dewitt believes that the Craig's structure qualifies, and should be allowed to rebuild on their non-conforming 4,225 square foot lot versus the required 10,890 square feet. Their financial burden would be great and if they are not allowed, a large law suit would no doubt be forth coming. He also stated they should be able to add a second story and 10 feet to the south with out a variance because the additions would not be in violation of the ordinance.

Mr. Harris was not in favor of the 10 foot addition to the South. Mr. Jensen questioned the ability to rebuild on a non-conforming lot/structure without a variance. Mr. Helphrey referenced other language in the same chapter that sounded different from Mr. Dewitt's interpretation and stated that two wrongs do not make a right. Mr. Adams questioned the interpretation of the above referenced paragraph.

Mr. Dewitt asked the Town Council, Mr. Jim Clevenger to provide his opinion. Mr. Clevenger stated that Mr. Dewitt's interpretation is probably correct. However we should not be concerned about a law suit and there should be more discussion regarding the additions.

Mr. Dewitt was adamant about his position and stated that variances were not required at all in this case and the petition should be pulled.

Mr. Craig spoke again about his safety concerns for his grandchildren, he will not combine his two lots, he will proceed with building his garage on the other lot and showed the Board a tentative plan for the new residence. He read a letter of support signed by 14 neighbors, friends and a contractor.

Mr. Helphrey reiterated that an accessory structure cannot be built on a lot without a primary structure. Mr. Craig responded that Mr. Dewitt will advise them on what materials to add to the garage structure so it will comply as a residence, which some other property owners have done in that area. Mr. Dewitt stated that that property has nothing to do with this petition and should not be included in this discussion.

Mr. Marc Damore spoke in support of this project and stated that this particular area of lake front is in much need of upgrading and he his for whatever is neighbors can do to accomplish it.

Russ Mason spoke in favor of rebuilding on the same lines. However, he did not believe the ordinance would allow a property owner to create a larger space on a non-conforming lot.

Mr. Adams requested the Boards comments with regards to pulling this petition. All were in favor. Mr. Helphrey agreed based on the Town Councils opinion but felt this decision will result in future problems and Chapter 8 should be brought to the attention of the Planning Commission for clarification. Mr. Clevenger agreed. Mr. Craig officially pulled the petition.

20018-003B: James and Peggy Kemmler, 1394 east Shore Drive. Originally heard on April 19th. The petition was tabled in order for the Attorney James Easterday and the Kemmler's have more time to conference with their Architect David Kizer and amend their request.

Mr. Kizer provided the Board with a new detailed construction plan that modifies the original set back request of 2.1 feet on the Northside to 5.1 feet increasing to 6.2 feet and from 1.2 feet on the South side to 5 feet. The new design provides a narrower footprint with greater setbacks than the existing structure.

Mr. Adams read two letters from the immediate neighbors, Terpstra and Warren, objecting to this project. Mr. Easterday responded by stating that the modified plans addresses their issues although he has not spoken to them.

As previously stated, this property consists of 5 parcels. Mr. Harris asked about combining the lots. Mr. Dewitt suggested that if the modified request is approved, the lots should be replatted and combined into one. Mr. Easterday explained the difference and cost between combining lots to achieve one Tax number and replatting. Mr. Dewitt explained that you should not be able to build over lot lines, the property owner and Town would be better off in the long run and the County is trending toward replatting.

There was much discussion on the pros and cons including comments from Mr. Mason and Mr. Easterday on similar situations. The Board agreed to vote on the modified petition with the stipulation that the property owners will attempt to replat. If the neighbors give serious opposition, the Kemmler's would be allowed to combine the 5 parcels into one Tax number.

Mr. Adams requested that the Board vote on this modified petition request with the above stipulation. The vote carried unanimously 5-0

2018-004B: Louis Curtis for the property located at 17078 B Road, to request a development standard variance to allow a variance of the East side yard setback of 2 feet from the required 15 feet to allow for the demolition of the existing detached garage and the construction of a new 16 by 30 foot garage.

Mike Grover, Builder, spoke on the property owners behalf. He provided a hand penciled drawing reflecting the house, shed and location of the new garage structure. The East side yard showed a 2 feet setback with a question mark at the existing garage location. He explained that the existing old garage is invested with termites. Due to the location of the driveway, a 4 inch well pipe between the rear porch and driveway, a large tree North of the garage, and the owner does not want to loose the rear window view, are the reasons not to change the location of the new 16 x 30 foot structure. She needs the larger

garage for storage of arts and craft supplies as well as her car. She would prefer to drive straight back to the street for safety reasons. There is no room for a turn around.

Mr. Adams questioned the assumption of the two foot setback and would their be a neighbor concern ? He suggested he would be prone to go along with a five foot setback from the existing fence which has been there for many years. Mr. Helphrey stated that he was not comfortable with the "assumption" and a certified survey with the correct lot square footage should have been included. The existing garage may even be encroaching on the other property. He stated there is room to move the garage and questioned the "Hardship" of this petition. The garage width could be reduced and if a survey showed the old wire fence as the true lot line, he would be prone to go along with a 7 foot setback since the requirement is 15 feet. He asked who owned the abutting properties and Mr. Grover replied that they are owned by prominent estates that have not or probably never will build in that area. The surrounding area is wooded and vacant.

The other members echoed Mr. Adams five foot suggestion, so Mr. Adams called for a vote since they apparently did not think a certified survey was worth the time or expense to the property owner. The vote called for approval of the amended East side yard setback from two feet to five feet from the old wire fence in order to build the new garage. The vote was approved 4-0. Mr. Helphrey voted no.

Citizen Input: Mr. Mason offered an example referring back to the first Petition and questioned the logic of removing the variance requirements on a non-conforming structure/lot. He now thinks the Building Commissioner will be able to make those decisions. Mr. Adams agreed with Mr. Dewitt and was comfortable with the Craig's being able to increase there space on this property without variances. Mr. Clevenger advised that this issue is now mute due to the Boards decision and reiterated that this issue should be addressed by the Planning Commission. Mr. Mason also advised the Board that they did not officially amend the setbacks for the Findings of Fact sheet for Petition 2018-003 B. Mr. Clevenger stated the intent was there when the modified plans were accepted and it would be alright for Mr. Adams to add the appropriate verbiage.

New Business: Per Chuck Dewitt, possibly three new request for the June meeting.

Old Business: Per Chuck Dewitt, Hopple property, owner meeting with Planning Commission in June to show extent of clean up. Water Test from property came back Negative for Petroleum products.

Boatsma properties, moving in right direction for cleanup. Still has more work to do.

Obispo property, was advised by the owner that they will try and auction off the property

Maple Ridge and the Rigging complexes. They are working closely together to improve drainage and resolve pond problem. They are installing concrete and a pump. Maple Ridge will incur most of the cost.

Collins Property south of the Cemetery. No plans in place, just discussion on condos with storage for boat equipment on first floor. Mr. Mason questioned the C 2 designation and suggested that it should be changed to R 2 if they are going to be rentals.

College Ave. property, Lien against property for \$ 3,000.00

Building Commissioner Report: none

Meeting Adjourned: 8:45 P.M.

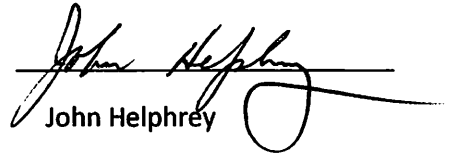
Submitted by John Helphrey, Secretary




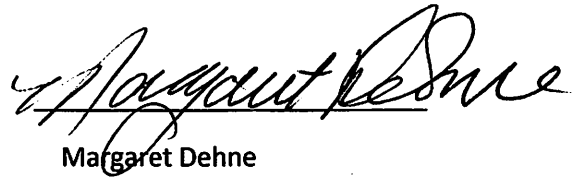
Dan Adams



Bill Harris



John Helphrey


Patrick Jensen
Margaret Dehne