

Culver Board of Zoning Appeals

Minutes: August 16, 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, Patrick Jensen and Chuck Dewitt Building Commissioner. Margaret Dehne was absent.

Mr. Adams requested a motion to approve the July 19, 2018 minutes which were approved 4-0.

2018-007B: A petition filed by Robert Pereira of 324 West Shore Drive. A continuance from the June 21st and July 19, 2018 meetings. Petitioners Attorney James Easterday addressed the Board with supplemental information relating to the projects construction plans and confirmed that the lot size is 75 feet wide by 99 feet deep which amounts to 7,425 Sq. Feet, not 8,049 Sq. Feet as suggested in the June 21st meeting. Therefore, the revised plans detailed reductions in the house dimensions which initiated the following amended variance request; North side yard setback of 8.0 feet from 8.9 feet, a South yard setback of 8.0 (no change) and a West rear yard setback of 19 feet from 13 feet. The distance from the structure to the road will increase from 25 feet to 30 feet. The rear area backs up to the old Railroad embankment, any future construction in that area is highly unlikely.

Mr. Dewitt informed the Board that in conjunction with this project Catch Basins would be installed to improve the management of storm water.

Mr. Easterday added that he would address the Planning Commission at their next meeting to request considering changing this area designation from S-1 to L-1. The related lots are all smaller which hinders new construction due to the difference in setback requirements. Mr. Dewitt was also in favor of this suggestion.

Mr. Damore who is a neighbor offered his support for this project and is elated for the changes that are starting to take place in this area.

Mr. Adams requested Board member comments. Mr. Helphrey voiced approval of the revised plan but was in opposition of the 8 foot side yard setbacks in an area that require 15 feet. Mr. Harris stated he would be more on board with the project, if the property designation was changed to L-1 and side yard setbacks would then be 10 feet. Mr. Helphrey commented on the amount of time it would take to change the designation and would not want to vote tonight based on something that may change. He referred to a previous approval that was based on the property owners promise to make changes that never took place. He stated that he was Ok with the amended front and rear setback request and would be agreeable to the revised plan if the side yard setbacks increased to 10 feet without the L-1 designation. Mr. Jensen concurred with Mr. Helphrey and added that the proposed structure could be modified to accommodate the suggested 10 foot setbacks without hurting the integrity of the petitioners new plan.

At this point, Mr. Easterday advised the Board that his client will make the Boards 10 foot side yards recommendation happen.

Since there were no more questions or concerns Mr. Adams requested the Board move to Finding of Facts and a motion to approve this Variance with the following setback recommendations; North side yard setback 10.0 feet, South side yard setback 10.0 feet, West rear yard setback 10 feet and street side setback 30 feet. In addition, the appropriate number of catch basins would be installed where required to properly manage storm water drainage. Motion to approve carried unanimously 4-0.

2018-008B: A petition filed by Lauritz C. Olson of 450 Forest Place. A continuance from June 21 and July 19, 2018 meeting. Mr. Olson did not attend tonight's meeting nor did he communicate to the Board his intentions. Therefore this petition is dropped from the agenda.

2018-011B: A petition filed by William and Robin Harris of 19040 Tamarack Road to request a Development Standard Variance to allow for an Accessory structure (24FT. round by 54 inches tall above ground swimming pool) to be installed in the front yard (Lakeside) area of the property which is designated L-1. Mr. Harris recused himself from the Board meeting to present his request.

Mr. Harris stated that his property is on Lost Lake (Hawk) and his front yard is lake side, his street side is the rear. The " Hardship " is that his family cannot swim in this lake.

Mr. Adams asked for Board member comments starting with Mr. Helphrey. Mr. Helphrey acknowledged the problem but stated that to the best of his knowledge the Board has never allowed a hot tub, spa or pool lakeside, due to the ordinance and lack of a true " Hardship ". Although this property side yards are not acceptable due to a septic field and driveway concrete, there is plenty of room in the rear yard. Also a pool is considered a luxury not a need. In addition the latest Planning Commissions review committee did not amend this ordinance nor differentiate between Lake Max and Lost Lake. Mr. Harris responded that his wife had recent back surgery and is going to aqua therapy in Plymouth. The pool would eliminate the trip.

Mr. Dewitt offered that the subject pool would be above ground not inground, therefore temporary, so It could easily be removed from the lakeside location. Mr. Helphrey replied that although the street side is not the ideal location, there is plenty of room with little too no traffic going buy. The same reasoning would apply if the petitioner would want to sell the property in the future Mr. Jensen commented that this situation is different and the pool would be located far enough from the lake. Mr. Adams concurred with Mr. Jensen but advised Mr. Harris that a vote tonight might not pass and he would have to wait a year to come back.

Mr. Mason who attended, reminded the Board that there was a recent amendment to the ordinance relating to front yard accessory structures that can no longer exceed 30 inches.

Mr. Adams again asked Mr. Harris about tabeling his petition until next month when the Board would have their full membership in attendance. Mr. Harris declined and requested that the vote take place tonight due to the short amount of summer season left.

Mr. Adams moved to Finding of Facts and a motion to approve this Variance request. The motion was denied 2-1 with Mr. Helphrey voting no.

2018-012B: A petition filed by James Easterday on behalf of Craig J Duchoissois for the property located at 184 West Shore Drive to request a Development Standard Variance to remove and replace the existing structure with a new residence on a non-conforming lot. North side yard of 4 ' from the required 10 feet, South side yard of 4'2" from the required 10 feet and Front yard (Lake side) variance of 5' 2 3/8 " from the required 25 foot average. Mr. Easterday and the petitioners Architect, Mr. Ernst, addressed the Board with " Hardship " explanations relating to the failure of the present foundation and structure as well as the Lot size, characteristics of adjoining lots , shorelines and elevations. In essence the new two story framed structure will be straighten to the North, the side yard setbacks increased, the Front yard setback moved back over five feet and the green space increased to 50 %.

After the Board offered favorable comments for the plans, Mr. Adams read four letters from neighbors supporting the project and one letter from Sarah Groch, who is a neighbor that lives directly across the street. She was very concerned about storm water management because she has experienced some flooding from other previous construction projects in the area. Two other neighbors attended and voiced their concerns. Katy Lacey and her Mother who have a house directly North are supportive but are concerned with excavation, shoring and their mature trees that offer privacy and shade. Mr. Steve Harper stated that he does not like the Front yard 5 foot set back and the potential effect on his property value in the future. He felt he should be assured that he would receive the same Variance accommodations if he decided to rebuild. Mr. Adams advised that that would not be possible and explained the issues regarding rebuilding on the same footprint vs. reducing non-conforming lines and structure dimensions. Mr. Helphrey read the recent Memo from the Planning Commission Committee with the proposed new language that will help clarify when a variance is required.

Mr. Easterday, Mr. Ernst and Mr. Joyce who is Mr. Duchoissois son-law all emphasized their intent to be good neighbors and will take the appropriate measures to satisfy all concerns.

Mr. Adams requested the Board move to Finding of Facts and a motion to approve this Variance request which carried unanimously 4-0 in favor.

For the Record the above Petition refers to a Front yard variance of 5.17 feet and required side yard setbacks of 15 feet. These minutes reflect the correct Front yard measurement of 5.2 3/8 inches and the correct **required** side yard setbacks of 10 feet

Old Business: Mr. Dewitt advised the Board that the Town is going forward with legal action against several properties that have been discussed previously. He has also discussed the new wooded fence on Lake Shore Drive that is in violation. The property owner has agreed to remedy the problem.

New Business: None

Building Commissioner Report: None

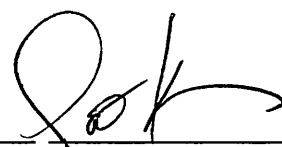
Adjournment: 8:30 P.M

Submitted By John Helphrey, Secretary



Dan Adams

Bill Harris



John Helphrey

Patrick Jensen