



Culver Planning Commission Meeting Minutes

August 20, 2019

Summary of Council Actions:

Items	Motion Made By	Seconded	Vote (For – Against - Abstained)
Motion to approve July 2019 minutes.	Ms. Dehne	Mr. Gut	7 – 0 – 1 Approved
Motion to approve secondary review of Sand Hill Farms/ Paddocks PUD contingent upon a satisfactory drainage plan.	Mr. Bean	Mr. McManaway	7 – 1 - 0 Approved
Motion to amend section 050 of Article 8 of the Culver Zoning Ordinance.	Mr. Fox	Mr. Oosterbaan	8 – 0 – 0 Approved
Motion to Adjourn	Mr. Bean	Mr. Osborn	7 – 0 – 0 Approved

1. Call to Order

President Barry McManaway called to order a regularly scheduled meeting of the Culver Planning Commission at 6:30 PM on August 20, 2019 at the Culver Town Hall.

2. Roll Call

Mr. Fox conducted roll call. The following members were present: Barry McManaway, Pete Peterson, Wayne Bean, Margaret Dehne, Chester Gut, Marty Oosterbaan, Don Fox, Dan Osborn, and Building Commissioner Chuck Dewitt. No members were absent.

3. Pledge of Allegiance

Led by Mr. McManaway

4. Approval of July 16, 2019 Minutes

Ms. Dehne moved to approve the July 16, 2019 minutes. Mr. Gut seconded. The motion was approved 7-0-1. Mr. Fox abstained because he was not present at the July meeting.

5. Public Hearing 2019-010, Bernero Subdivision

Mr. DeWitt reported that there had been a request that the hearing be postponed until September because some drawings had only been received recently. Because of this request, no public hearing was held. Ms. Katie Lewellen, a member of the public asked about a drain pertinent to the project. Mr. DeWitt said the drain in question was a county drain. The Commission agreed to carry the hearing over to the September meeting.

6. Secondary PUD Review – The Paddocks and Sand Hill Farm

At the June 2019 Plan Commission Meeting, several topics were brought up as points for the Secondary Review. At the June meeting, Mr. McManaway asked about connectivity between the Paddocks/Sand Hill Farm and Town. Mr. Leist explained at the June meeting that connectivity would be addressed for the secondary approval by the Commission at time in the future to be determined. Mr. Leist stressed that part of this plan would include a right of way connecting the Paddocks/Sandhills projects with Cass Street. Mr. Oosterbaan said we should reserve the right to approve the secondary plan to make sure there would be trail and sidewalk connectivity to Cass street.

Also, at the June meeting, Mr. Oosterbaan asked about the landscaping plan and whether sidewalks were adjacent to Cavalier Drive or separated from the drive by a strip of grass and trees. Mr. Martin, the architect, explained that there was six feet of separation between the street and the sidewalk, but he was unsure about whether that might be enough for trees.

At the August meeting, Mr. Martin presented the updated plan to the Commission. He noted that the front yard setback for the townhomes is 15 feet which is allowable in the PUD and that the setback was designed to match the proportion/scale of the buildings. The drainage plan is currently with the county surveyor.

Mr. Leist discussed what had transpired at the technical review meeting. He said there was now a utility and trail easement to the east property line. However, the trail easement stops at the edge of Mr. Berger's property. Presently, it will not connect with any town street or sidewalk to the east of the property.

Mr. Fox asked Mr. Leist if there was any contingency if five years from now the trail still stopped at the edge of Mr. Berger's property and we had a "tail to nowhere." Mr.

Leist said he was hopeful something could still be worked out with adjoining property owners and that there was some recourse for the town.

Mr. Bean moved to approve the PUD conditioned on approval of the drainage plan. Mr. Peterson seconded. The motion was approved 7- 1 – 0. Mr. Fox voted no because there was no pedestrian/bike connectivity between Paddocks/Sand Hill and Cass Street to the east.

7. Non-conforming Lots

At the May, 2019 meeting, the Commission recommended that Article 8 Section 050 (Non-Conforming Structures), paragraph 2 of the Zoning Ordinance be amended to read, "Should such non-conforming structure or non-conforming portion of a structure be destroyed by any means, it may be rebuilt upon existing foundation lines." This change reflects a recommendation of Plan Commission made at a previous meeting.

It was also recommended that Article 8 Section 090 (Repairs and Maintenance) be changed to read: "The following applies to legal nonconforming structures and legal nonconforming uses of structures, or structures and land in combination: Work may be done for ordinary repairs or replacement of bearing or non-bearing walls, heating, fixtures, wiring, or plumbing; so long as the foundation lines of the existing non-conforming structure are not expanded upon or altered. The footprint of the structure is not to be increased as part of repair, maintenance, or replacement," to reflect the recommendation of the Plan Commission at a previous meeting.

A motion to approve these and other unrelated changes was approved at the May meeting 7-0-0.

At the August meeting, Mr. Leist reported that at the Town Council was not in favor in allowing a property owner to build a new home that would increase the "living area" within the existing footprint – essentially going up to the 35' maximum height that is allowed for single family homes.

Mr. McManaway expressed concern that this ordinance – as recommended by the Council - would apply to any non-conforming lots, not just those near the Lake. He also expressed concern that the ordinance could be read to apply only to homes destroyed by acts of god. Mr. Leist and Mr. DeWitt clarified that a crumbling foundation would also be included within the scope of "an act of god."

Mr. McManaway stated that he favored allowing a homeowner to re-build a house that is voluntarily torn down. Mr. Oosterbaan indicated his agreement. Mr. Fox clarified that the language approved by the Commission in May and sent to the Council placed no limitation on voluntary versus involuntary teardowns.

Ms. Jennifer Shea, member of the public, asked whether the intent of the Council was to allow a homeowner with a non-forming lot to expand the square footage of a new house in these situations without BZA approval.

Mr. Fox asked whether the Council had considered a homeowner building a livable basement, which would increase the "living area" of the home. He also asked whether the height of a home that went to the maximum allowable single family height of 35' but that did not increase the living space is what the Council intended.

Mr. Leist indicated the Council's concern was really the height of replacement structures and that the Council felt and height increase should require BZA approval.

Mr. Fox moved that section 050 of Article 8 be amended to read "Should such non-conforming structure or non-conforming portion of a structure be destroyed by any means, it may be rebuilt upon existing foundation lines, *provided that the height of the replacement structure may not exceed the height of the structure that was destroyed unless approved by the Board of Zoning Appeals.*" The italicized language is an addition to what the Commission recommended in May and is intended to address the Council's concern about height.

Mr. Oosterbaan seconded motion. The motion was approved 8-0-0.

6 Old and New Business

No new business was presented. Mr. Oosterbaan provided the Commission an update regarding the Technical Review Committee's work on the question of whether to allow lot combinations across public rights-of-way. At a TRC meeting on July 25th, Ty Adley, Plan Commissioner for Marshall County, gave a presentation on the various technical aspects involved, including how "lots" are variously defined, and how Marshall County and other governmental entities look at the question. That meeting concluded with Mr. Oosterbaan agreeing to do more research into local properties to be potentially impacted.

Mr. Oosterbaan provided the Plan Commission members with an Excel worksheet listing 48 properties on the west shore and in town where common property ownership exists on both sides of a right of way, and asked the members to study the worksheet in anticipation of the next meeting of the TRC.

7 Building Commissioner's Report

Mr. DeWitt provided a report. 24 building permits were issued within the Culver jurisdiction for the second quarter. There were no questions.

8. Citizen Input

Ms. Elaine Giudice of 217 N. Main Street, with assistance from Mr. DeWitt, presented a series of pictures illustrating her concerns with respect to a tree in her backyard potentially being impacted by the BP station construction occurring next door. The concerns emanate from loosely packed soil at the base of the tree. Mr. Kevin Berger, the contractor for the BP station remodel, was in attendance and

indicated the slope wall of the excavation, though eroded by rain, showed no indication of erosion below grade on Ms. Giudice's property. He committed to the installation of the planned retaining wall in the second week of September, and said the construction work for the wall will expose any below ground erosion should it exist.

9. Member Concerns

None.

10. Motion to Adjourn

Mr. Bean moved to adjourn the meeting. Mr. Osborne seconded. The motion was approved 7-0-0 (Mr. Fox departed before the motion was made) and the Commission adjourned at 7:47 PM.

The next regularly scheduled meeting will be Tuesday September 17, 2019 at 6:30 PM.

Minutes approved by:

Barry McManaway

Pete Peterson

Chester Gut

Margaret Dehne

Wayne Bean

Don Fox

Marty Oosterbaan

Dan Osborn