

Culver Board of Zoning Appeals

Minutes: May 21, 2020

Due to the Covid-19 restrictions, the Culver Board of Zoning Appeals met via Microsoft Teams or through a conference call number for those without internet access. Dan Adams, Chuck DeWitt, and Jonathon Leist were physically present at Town Hall.

Dan Adams called the meeting to order and led in the Pledge of Allegiance.

The Culver Board of Zoning Appeals met in session with the following in attendance; Dan Adams, President; Barry McManaway, Vice President; Leigh Marshall, Secretary; JD Uebler, Building Commissioner Chuck DeWitt, and Town Manager, Jonathon Leist. Dan Osborn listened through Microsoft Teams but due to technical difficulties was unable to participate.

There was a motion to approve the minutes of 4/16/20. The minutes were approved and signed by Mr. Adams. The other members will sign at a later date.

2020-002B: This petition had been tabled at the previous meeting and was again tabled until June.

2020-003B: This petition filed by Anthony and Kimberly Kerns for the property located at 215 N Lakeview Street, Marshall County Parcel ID 502116303073000014 originally requested a variance of development standard to allow for a north side yard setback of 3 feet from the required 10 feet and an east front yard setback of 8 feet from the required 25 feet to allow for the demolition of the existing home and the construction of a new 1,542 square foot single family home. This petition was tabled in the April 16, 2020 meeting to allow the Kerns to consider suggestions and concerns of the Board.

Both Kimberley and Anthony Kerns were present and shared that the desired east side setback request was now 13 feet from the required 25 feet; the north side was now 8 feet from the required 10 feet. Mr. DeWitt added that he had met with the builder on the property and felt comfortable recommending approval.

The new petition, as amended, was passed unanimously.

Mr. Adams signed the Findings of Fact. The others will sign at a later date.

2020-004B-59046: A petition filed by Mr. James E. Easterday on behalf of Samuel N. Van Til, Trustee, to approve variance of development standards to allow for the

construction of a garage to and adjoining a private easement boundary (0 foot setback) on the interior of a lot owned by applicant. The address of the property is 910 South Street, Culver, Indiana, 46511; lot A in the Van Til Minor subdivision, a replat of lots 2 and 3 in the Domiter subdivision, town of Culver, Marshall County, Indiana.

Mr. Easterday appeared on behalf of the Van Tils. He explained that he felt there actually was no need for a variance, there was no "street" as it is actually a private driveway, and that the total impervious surface was at 40%.

Neighbors Henry and Marsha Bilsland, 1000 South Street, Culver, IN, 46511 sent a letter to the Board in support of the project.

Mr. McManaway expressed concern as to whether the driveway was a permanent easement or a private agreement. Mr. DeWitt felt it would be a legal matter if there were ever any disagreement regarding the easement. It was not a matter for the BZA.

Bridget Andrews, 910 S. Plymouth St., appeared by phone. Her property adjoins the Van Tils at the back of the proposed new construction. Her concern was what she saw as a zero setback at her property. Mr. Easterday explained there was actually a 35-foot setback from her property; the zero setback was at the private drive.

Mr. Easterday asked that there be a Motion to agree there was no need for a variance request. The Motion was made and passed unanimously.

2020-005B-59046: A petition filed by Mr. James E. Easterday on behalf of Sandra Welch, Trustee, to approve variance of development standards to allow for construction of an accessory boathouse/patio in the front yard (lakeside) of a lot owned by applicant. The address of the property is 1680 E. Shore Dr., Culver, Indiana, 46511; lot number 1 of Bernero east Shore Drive minor subdivision as recorded September 24, 2019 in document no. 201904798, recorder's officer, Marshall County, Indiana.

Both Mr. Easterday and the applicant's architect, Chip Hackley, presented. Mr. Hackley is of Hackley and Associates, Architects, 440 Green Bay Road, Kenilworth, Illinois 60043.

Mr. Hackley explained that he had very much considered the lake community in his design. The boathouse is to be built within the slope of the hill such that only the railing at the top of the structure would be visible. Mr. McManaway asked about the deck material extending from the entrance to the boathouse and Mr. Hackley said it

would be permeable material.

Mr. Richard Starkey, his wife, Janet Starkey, and Mr. Starkey's sister, Julie Bell joined the meeting. They live at 1746 East Shore Drive, Culver. All three expressed concern about the ability to walk around the lakeshore if various "boathouses" are built. They wondered if a permanent public easement existed which granted access all the way around the lake. Mr. Easterday said he had done extensive research but had never found any evidence that such a public easement existed.

Mr. Hackly explained that with the current design, there would be a small area left to walk along the water's edge.

A Motion was made to grant the variance and it passed unanimously.

Mr. Adams signed the Findings of Fact. The others will sign at a later date.

Old Business:

Mr. DeWitt shared that petition 2020-002B would be on the schedule for June. Mr. Easterday added that he had also filed a new petition for June.

New Business:

It was noted that a new, and perhaps confusing, numbering system was now being used for the petitions. Mr. Adams asked that we combine the old system with the new for the time being. Thus, the two new petitions heard at this session are **2020-004B-59046** and **2020-005B-59046**.

Mr. Uebler asked to revisit the discussion from the **2020-005B-59046** petition. He felt the ordinance as to what is allowable in the front yard of an L-1 district is not well defined. Both Mr. McManaway and Mr. DeWitt explained that the reasoning behind the ordinance was to make it vague enough to require almost all structures be "looked at" by BZA.

Both Mr. DeWitt and Mr. McManaway agreed with Mr. Uebler that the ordinance needs to be reviewed and both promised to put it on the Planning Commission agenda.

The meeting adjourned at 7:47PM.

Submitted by Leigh Marshall

Dan Adams

JD Uebler

Leigh Marshall

Barry McManaway

Dan Osborn