

Culver Board of Zoning Appeals

Minutes: January 21, 2021

Due to the Covid-19 restrictions, the Culver Board of Zoning Appeals met in the Culver Beach Lodge to allow for social distancing. There was also an option to join through Microsoft Teams or through a conference call number for those without internet access.

Leigh Marshall, acting president in the absence of Dan Adams (president) and Barry McManaway (vice-president), called the meeting to order at 6:30 PM and led in the Pledge of Allegiance.

The Culver Board of Zoning Appeals met in session with the following in attendance; Leigh Marshall, Secretary; Dan Osborn, J.D. Uebler and, by invitation, Culver town attorney, Jim Clevenger (through Microsoft Teams). Town Manager Jonathan Leist and Culver Building Commissioner Chuck DeWitt were also present.

The minutes from December 17, 2020 were approved: J.D. Uebler made the motion; Dan Osborn seconded; 3-0 vote in favor to approve.

Ms. Marshall directed the Board to consider case 2021-001B.

2021-011B

A petition has been filed by the Culver Educational Foundation to request a variance of development standards at 1046 Academy Road for a west side yard setback of 7 feet 6 inches from the required 15 feet to bring a recently constructed accessory structure (garage) into compliance with zoning requirements. The accessory structure is 32 feet by 24 feet in size and the property is in the S-1 (suburban) zoning district. The address of the property is 1046 Academy Road, Culver, Indiana 46511, Marshall County Parcel ID # 502116000071000013. Copy of this notice has been sent to the petitioner and to the owners of property affected by the petition.

Mitchell DeWitt was present for the hearing, representing the Culver Educational Foundation (CEF). Mr. DeWitt provided the timeline of events for the garage construction. In the fall of 2019, CEF determined that the old garage was in disrepair and not up to code structurally or electrically; therefore, CEF determined a demolition and rebuild as the most appropriate path forward. In October of 2019, a building permit was denied to CEF for this project due to the lack of approved variance by the Culver BZA for the rebuild. The project moved forward without an

approved variance by Culver's BZA and was built and approved by a part-time building department inspector (no name provided) in the spring of 2020. Mitchell DeWitt stated that upon the building department's inspection, he realized that there was never a variance granted by Culver's BZA to build on the petitioner's requested setbacks. Mr. DeWitt stated that he wasn't employed at the time of the denied building permit and subsequent request for a variance approval. He described the process of CEF as systematic failure and that the ball was dropped.

Mr. DeWitt stated that he wanted to make right this extreme oversight of seeking a variance for the garage build before building the garage. Chuck DeWitt confirmed that the new structure is the appropriate size and shape.

Mr. Clevenger stated that the Board had the right to fine CEF for their violation. Chuck DeWitt stated that the fine could be up to one times the cost of the permit, which was valued at \$200. During public input, Mr. Russ Mason of 530 Forest Place Culver, IN 46511 stated that there is a pattern of the Facilities Department at CEF for this type of behavior as he supported the Board issuing a fine.

Mr. Uebler questioned whether he had a conflict of interest in this case due to being an employee of CEF. Mr. Clevenger advised Mr. Uebler to abstain. As a result of Mr. Uebler's abstention, the Board no longer had a quorum. Mr. DeWitt asked to table the hearing and return to the February Board meeting as the Board would have a quorum to resume the hearing at that time.

2021-002B:

A re- hearing will be held for a petition originally filed by Gregory and Alyssa Burns to request a variance of development standards for a north side yard setback of 1 foot from the required 10 feet, a front yard setback of 20 feet from the required 25 feet, and for a maximum impervious surface percentage of 58% from the standard maximum of 50%. The variance requested is for the purpose of constructing an 8 feet by 28 feet two-story front porch in the R-1 district on a new home built on the same footprint as the previous structure. The address of the property is 311 N State Street, Culver, Indiana 46511, Marshall County Parcel ID # 502116304102000014. Copy of this notice has been sent to the petitioner and to the owners of property affected by the petition.

Greg Burns was present to share and to answer questions during the re-hearing. Mr. Burns recorded that he submitted the same site plans that he submitted during the permitting process. The Burns also submitted to the Board a memo that outlined their process from purchasing the home to current date. Mr. Burns noted that he and Alyssa did not intend to mislead anyone in the case and that they

assumed that the Board had all of the information previously submitted.

Mr. Osborn asked Mr. Burns to share the hardship for needing this variance. Mr. Burns stated that he and Alyssa wanted to connect with their neighbors and pedestrians in the area. Without the two-story, open deck, Mr. Burns stated that they would not be able to fulfill their desire to be a part of their neighborhood. Mr. Burns asked for examples of hardship, and Mr. DeWitt shared hardships are in cases of topography and a need for handicap accessibility standards.

Mr. Uebler confirmed that the Board was issuing the variance that granted 1) the increase in impervious surface percentage; 2) the north side yard setback request; and 3) the front yard setback request.

Ms. Marshall stated that the site plans do not show eaves and therefore eaves will be in violation of the variance based on the submitted site plan. Mr. DeWitt reminded Mr. Burns about the strict enforcement that the structure can not be more than 35 feet in height.

During discussion, Mr. Uebler asked whether the Board wanted to consider the front yard setback to be moved to 21' based on the decision from the initial hearing.

During public input, Mr. Vernon Chmielewski, 517 E. Lakeshore Dr, questioned the hardship of the Burns and described how he gets out and meets neighbors.

Mr. Burns asked the Board if there was any recommendation or adjustment that could be made to pass the variance, suggesting that he would bring down the impervious surface structure percentage by breaking up a concrete path/sidewalk if the Board wanted to see the impervious surface percentage move closer to 50% as an example. Ms. Marshall stated that the Board hears the petitioner's request and does not typically negotiate during the hearing.

The Board moved to the finding of facts. After the finding of facts were made public, Ms. Marshall reminded Mr. Burns of the three-person quorum. Mr. Burns asked the Board to table the hearing until the February meeting.

Old Business:

There was no old business.

New Business

There was no new business.

Citizen Input:

Mr. Clevenger led the Board in thanking Mr. Leist for his service to the Culver Board of Zoning and Appeals and wished him well.

The meeting adjourned at 7:32PM.

Submitted by J.D. Uebler

Dan Adams

JD Uebler

Leigh Marshall

Barry McManaway

Dan Osborn