



LITTLE TOWN ON LAKE MAXINKUCKEE

**Culver Board of Zoning Appeals  
6:30 p.m., Thursday, March 18, 2021**

**The meeting will take place at Culver Town Hall, 200 East Washington, Culver  
and via Teams**

[Click here to join the meeting](#)

Or call 1 574-221-6909 and use conference ID 112154310#

1. Pledge of Allegiance
2. Roll Call
3. Approval of February 18, 2021 Minutes and March 4, 2021 Work Session minutes
4. Petitions:

**2020-15B:** A petition filed by James Easterday on behalf of Kim Cook, tabled from October 15, 2020 hearing.

**2020-018B:** A petition filed by James Easterday on behalf of Loyal W. Wilson, tabled from the November 19, 2020 hearing.

**2021-004B:** A petition filed by James Easterday, Attorney on Behalf of Diane Green, to approve a Variance of Development Standards to allow construction of an accessory/storage unit in the front yard (lakeside) of a lot owned by applicant with an area of 392 sq. ft. and height of 12 ft. 6 in., and fencing with height 6 ft. and solid surface. The ordinance requirement is area of 250 sq. ft., height of 30 in. and fencing requirement of 5 ft. and 50% opaque. The address of the property is 303 State Street, Culver, Indiana 46511.

5. Old Business
6. New Business
7. Building Commissioners Report
8. New meeting if necessary – April 15, 2021
9. Adjourn

**BZA Members**

Dan Adams, President  
Leigh Marshall, Secretary  
Barry McManaway  
Dan Osborn  
John Uebler

## **Culver Board of Zoning Appeals**

### **Minutes: March 18, 2021**

The Culver Board of Zoning Appeals met at Town Hall but, due to Covid-19 restrictions, kept the audience at a minimum 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.

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; Dan Osborn, and Building Commissioner Chuck DeWitt. JD Uebler was absent.

A motion was made to approve the minutes of 2/18/21. The minutes were approved and signed. A motion was made to approve the minutes of the 3/4/21 work session. The minutes were approved and signed.

**2020-015B (2020-B-67422):** The original petition filed by Mr. James Easterday, Attorney, Easterday, Houin, 212 N. Main St., Culver, IN, 46511, on behalf of Kim Cook requested a variance of development standards to allow for construction of a residence with front yard setback of 20 feet and rear yard setback of 3.5 feet from ordinance requirements of 25 feet. This request was tabled from the October 15, 2020 hearing. The address of the property is approximately 590 West Shore Dr., Culver, IN, 46511 (address not assigned). The new request in this hearing was for a front yard setback of 15 feet and a rear yard setback of 18 feet from the required 25 feet.

Mr. Easterday was at Town Hall. Ms. Cook attended by phone. Mr. Easterday explained that the surrounding properties were an average of 6.7 feet from the lake. He also said the egress/ingress easement on the property would still exist even if the property were sold. The general feeling of the Board was the house needed to be smaller. Building Commissioner, Chuck DeWitt recommended against approving the variances.

Diane Osborn, 18171 West Shore Circle, called in to say she was against the variances. She said the ingress/egress easement is used by Gary Schaffer as access to install and remove boat lifts. The easement is also used by the local residents (many of them children) in the area as access to the lake for swimming. She also expressed concern that the two gates on the property would create awkward and perhaps dangerous traffic patterns as the Cooks would need to stop their car to open their access gate and this would require traffic to stop. She also shared that the area is particularly crowded during the summer with trucks and trailers parked along the road after having launched their boats from the public access ramp. Ms.

Osborn said that she, Ms. Mary Baker, and Ms. Emily King had sent letters expressing their opposition to the variances. The Board did not have copies of those letters.

Ms. Emily King, 18151 West Shore Circle, called to express her opposition to the variances. She explained the easement on her property is for egress/ingress only and does not give anyone the right to use the ramp to the lake. She asked if members of the Board had been out to see how awkward the gate positions are explaining this was important because one gate is parallel to West Shore Circle and the other is perpendicular. Ms. King also said she had not received the revised drawings of the new variance request. She expressed concern about the buried gas tank on the property and was told by Mr. DeWitt that the tank is an environmental issue, not a BZA issue. Ms. King also asked about the Cook's driveway and its obstruction of the easement.

Ms. Kim Cook, the property owner, explained there was not room to put in a driveway on the property and she felt it was safer that way. She explained the home was a seasonal one and she felt they would not add greatly to the use of the ingress/egress as they were only in town approximately ten times a year.

Mr. Easterday asked to table the petition and said he would return with more specific information on the use of the easement.

**2020-018B:** A petition filed by Mr. James Easterday on behalf of Loyal W. Wilson to request variance of development standards to allow construction and rebuilding of an accessory structure with south side yard setback of 2'6" from the required 10' and height of 17' from the required 16' located at 2270 East Shore Lane. This request had been tabled at the November 19, 2020 hearing.

Both Mr. Wilson of 2270 East Shore Lane and Chad Leap, Skyline Builders, 309 S Detroit St, Warsaw, IN 46580 joined by phone. Mr. James Easterday, attorney, Easterday, Houin, 212 N Main St, Culver, IN 46511 was present at Town Hall.

Mr. Wilson presented on his own behalf and asked the Board to reconsider its position on his previous request. He also said he would seek consolidation of his separate lots if he received approval. The Board explained to Mr. Wilson again that he could not increase the non-conformity and use of his existing accessory structure. Mr. Easterday asked to table the petition.

**2021-004B:** A petition filed by James Easterday, Attorney, on behalf of Diane Green to approve a variance of development Standards to allow for construction of an accessory/storage unit in the front yard (lakeside) of a lot owned by the applicant with an area of 392 sq. ft. and height of 12 ft. 6 in. and fencing with height 6 ft. and solid surface. The ordinance requirement is area of 250 sq. ft., height of 30 in. and fencing requirement of 5 ft. and 50% opaque. The address of the property is 303 State Street, Culver, Indiana, 46511.

Mr. Easterday, Mrs. Green, her son, and her daughter-in-law were present at Town Hall. The architect, Ms. Laurie Roberts, Roberts Design Studio, PO Box 544, Rochester, IN was also in attendance.

Ms. Roberts explained the new structure was intended as a memorial for Mrs. Green's recently deceased daughter. The structure would be made of brick and copper. Both she and Mr. Easterday claimed the new building would not block anyone's view of the lake. Mr. DeWitt shared that the arbor vitae at the location were likely non-compliant as they, per ordinance, are not to be higher than five feet and they are at 12 feet.

Ms. Marshall read into the record a letter and an email from neighbors who opposed the project. The letter from Lindsay Wheeler, 411 East Washington, Culver, 46511 and the email from Anthony and Kimberly Kerns, 215 Lakeview St., Culver, 46511. Both are filed with these minutes.

Steve Snyder, attorney, Snyder, Morgan, Federoff, 200 W. Main St., Syracuse, IN, 46567, joined by phone. Mr. Snyder explained he represented Mr. Phil Krauss at 508 E Washington St., Culver, IN, 46511 and said that Mr. Krauss owned 40 feet of lake frontage. Mr. Snyder presented six exhibits A-F showing that the proposed structure would interfere with Mr. Krauss's lake view, that the structure would be damaging to Mr. Krauss's property value and that the Greens had not shown a true hardship or difficulty in asking for their variances. Mr. Snyder also felt the structure would interfere with Culver's Comprehensive Plan and he read into the record an Indiana Supreme Court decision from 2014 that very specifically defined "practical difficulty." A copy of what he read is filed with these minutes.

Ms. Janet Oosterbaan, 504 E. Washington St., Culver, IN 46511, joined by phone. She opposed the variance request and expressed concern that its approval would allow other property owners to build similar structures.

Mr. Jeff Mansfield, 222 Lakeview St., Culver, IN 46511 was present at the hearing and expressed concern regarding the proposed bathroom in the new structure and how the sewage would be handled. The Greens shared they were unsure but would explore in more detail if the variances were approved. Mr. Mansfield also asked if the lake pathway would be obstructed during construction and was also worried about the precedent set by approval of the variances.

Mr. Marty Oosterbaan, 504 E. Washington St., Culver, IN, 46511 joined by telephone. He differed with the Green's architect regarding the structure and that it would not block his lake view. He said he could see the existing trees at the proposed structure's site from his house and would therefore see the new structure. He also differed with Mr. Easterday who had made a comment regarding the existing ordinance regarding lakefront buildings as being an "oxymoron". Mr. Oosterbaan explained the town's Comprehensive Plan (p.41) focused on enhancing the existing

access points to the lake. He said the ordinance was meant to help preserve those points as too many of them were disappearing; especially those access points along the trails. Mr. Oosterbaan is a member of the Planning Commission.

Mr. Osborn shared he had been a member of the Planning Commission for twenty years and that every ordinance they could make to protect the lake, they made. He said the lake is Culver's most important asset.

Mr. Don Fox, 301 N. Shore Lane, Culver, IN 46511 joined by telephone to say the Planning Commission was well represented on BZA. He expressed his concern regarding the proposed variances and the "slippery slope" that could result. He agreed with Mr. Oosterbaan's comments regarding the town's Comprehensive Plan. He added finally that the ordinance regarding structures on lakeside front yards was not "random" but well thought out. The Planning Commission did allow a small structure for the storage of lake toys, etc., but nothing larger. Mr. Fox is a member of the Planning Commission.

Mr. Easterday moved to table the petition.

### **Old Business**

Mr. DeWitt shared he had gone to the Burns property on State St. to assess how high it was and believes it is over the 35 ft. maximum. He is confirming this with Bob Porter and the use of a bucket truck.

The Jones property on State St. is in compliance as the Jones's purchased a ten-foot strip of land from their neighbors to the north.

### **New Business**

There will be three new hearings for the regular BZA meeting on April 15. The extra meeting scheduled for April 1 is a "catch up" meeting due to timely variance requests remaining inaccessible for a few weeks after Jonathan Leist left as Town Manager.

The Van Hawk properties are still tied up due to Mr. Van Hawk filing bankruptcy. The Hopple property may have to be forced into receivership to allow for clean up. There is a new complaint regarding a property being used as a business that Mr. DeWitt is going to explore.

Meeting adjourned at 8:53PM.

Submitted by Leigh Marshall

Dan Adams JD Uebler E. Leigh Marshall

Dan Adams

JD Uebler

Leigh Marshall

Barry McManaway Dan Osborn

Barry McManaway

Dan Osborn