



LITTLE TOWN ON LAKE MAXINKUCKEE

Culver Board of Zoning Appeals 6:30 p.m., Thursday, July 15, 2021

The meeting will take place at Culver Town Hall, 200 East Washington, Culver

[Click here to join the meeting](#)

Or call 1 574-221-6909 and use conference ID 270 204 772#

1. Pledge of Allegiance
2. Roll Call
3. Approval of June 17, 2021 minutes
4. Petitions:

2021-003B: Joseph Garnett and Cynthia Halleck for the property located at 415 State Street, Culver, Indiana, which was tabled from the April 1, 2021 meeting.

2021-013B: 2021-B-75497: James Easterday on behalf of Kathryn Densborn for the property located at 50 West Shore Drive, Culver, Indiana, which was tabled from the May 20, 2021 meeting.

2021-015B: 2021-B-79135: A petition filed by James Easterday, Attorney on behalf of James A. Purucker, to approve a Variance of Development Standards to allow tear down and reconstruction of a residences with side yard setbacks 2.8ft and 8ft, rear yard setback of 17.3ft, additional accessory structure of patio in front yard, and rear yard fencing to shield utilities, from ordinance requirements of 10ft side and 25ft rear, one accessory structure of 250 sq ft and rear yard fencing of 50% open surface. The address of the property is 144 South Shore Drive, Culver, Indiana 46511.

2021-016B: 2021-B-79228: A petition filed by James Easterday, Attorney on behalf of Daniel L. Cook, to approve a Variance of Development Standards to allow tear down and reconstruction of a residence on the same footprint with height not to exceed 35ft, with ordinance requirement of not to exceed height of previous structure. The address of the property is 594 West Shore Drive, Culver, Indiana 46511.

2021-017B: 2021-B79483: A petition filed by James Easterday, Attorney on behalf of Joan K. Brandt, to approve a Variance of Development Standards to allow tear down and reconstruction of a residence on the same footprint with height not to exceed 35ft, with ordinance requirements of not to exceed height of previous structure. The address of the property is 280 West Shore Drive, Culver, Indiana 46511

5. Old Business
6. New Business
7. Building Commissioner's Report
8. New meeting if necessary – August 19, 2021
9. Adjourn

BZA Members

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

TOWN OF CULVER

BOARD OF ZONING APPEALS
NOTICE OF HEARING

PETITION NO.	
Local Case #	<u>2021-17B</u>
Case #	<u>2021-B-79483</u>
DATE OF HEARING	<u>July 15, 2021</u>
TIME OF HEARING	<u>6:30 P.M.</u>

PLEASE TAKE NOTICE:

That a petition has been filed by Mr. James E. Easterday, Attorney on behalf of Joan K. Brandt, to approve variance of development standards to allow tear down and reconstruction of a residence on same footprint with height not to exceed 35 ft., with ordinance requirements of not to exceed height of previous structure. The address of the property is 280 West Shore Drive, Culver, Indiana 46511. The Legal description is: The South 40 feet of the North 107.5 feet of the following described real estate: Beginning at the East line of the right-of-way of the T.H. and L. R.R. and 30 feet North of the South Line of Lot 2 in Section 28, Township 32 North, Range 1 East, Marshall County, Indiana; thence East, 220 feet to meander line of Lake Maxinkuckee; thence Northwest and with the meander line, 400 feet; thence West, 60 feet to the right-of-way of said railroad; thence South and with the said right-of-way, 380 feet to the point of Beginning.

A hearing upon this petition will be held in the Municipal Building, 200 East Washington Street, Culver, Indiana, at which time, you may appear either in person, present in writing, be represented by agent, or by attorney, and present any reasons which you may have to the granting or denying of this petition.

Copy of this notice has been sent to the petitioner and to the owners of property affected by the petition.

You are requested to prepare your case, in detail, and present all evidence relating to this petition at the time of the scheduled hearing.

Due to COVID-19 health concerns, all interested parties are encouraged to participate online, provide comment via email, or call in to the meeting. This meeting will allow for electronic and telephone participation via Microsoft Teams, a link and call in number will be available one week prior to the meeting and included in the final agenda. For information on how to view or call into the meeting, please contact the Town Clerk at 842-3140.

Respectfully Submitted,

Chuck DeWitt
Building Commissioner
Dated: 6/17/2021

TOWN OF CULVER

BOARD OF ZONING APPEALS

NOTICE OF HEARING

PETITION NO.	
Local Case #	<u>2021-0 B</u>
Case #	<u>2021-B-79135</u>
DATE OF HEARING	<u>July 15, 2021</u>
TIME OF HEARING	<u>6:30 P.M.</u>

PLEASE TAKE NOTICE:

That a petition has been filed by Mr. James E. Easterday, Attorney on behalf of James A. Purucker, to approve variances of development standards to allow tear down and reconstruction of a residence with side yard setbacks of 2.8 ft and 8 ft, rear yard setback of 17.3 ft, additional accessory structure of patio in front yard, and rear yard fencing to shield utilities, from ordinance requirements of 10 ft side and 25 ft rear, 1 accessory structure of 250 sq ft. and rear yard fencing of 50% open surface. The address of the property is 144 South Shore Drive, Culver, Indiana 46511. The Legal description is: Lot Number Fourteen (14) in the Daugherty-Farrar Second Addition to Lake Maxinkuckee. Situate in Union Township, Marshall County, State of Indiana.

A hearing upon this petition will be held in the Municipal Building, 200 East Washington Street, Culver, Indiana, at which time, you may appear either in person, present in writing, be represented by agent, or by attorney, and present any reasons which you may have to the granting or denying of this petition.

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Respectfully Submitted,

Chuck DeWitt
Building Commissioner
Dated: 6/17/2021

NOTICE OF HEARING

PETITION NO.	
Local Case #	<u>2021-0 B</u>
Case #	<u>2021-B-79228</u>
DATE OF HEARING	<u>July 15, 2021</u>
TIME OF HEARING	<u>6:30 P.M.</u>

PLEASE TAKE NOTICE:

That a petition has been filed by Mr. James E. Easterday, Attorney on behalf of Daniel L. Cook, to approve variance of development standards to allow tear down and reconstruction of a residence on same footprint with height not to exceed 35 ft., with ordinance requirements of not to exceed height of previous structure. The address of the property is 594 West Shore Drive, Culver, Indiana 46511. The Legal description is: Beginning at the Southeast corner of Lot formerly owned by "Knapp", at meander line of Lake Maxinkuckee; thence Southerly along said meander line, a distance of 58.8 feet, to a point; Thence North 85 degrees – 15' West to the East line of the Right of Way of the T.H. & L.R.R. Co., a distance of 86.8 feet, to a point; Thence North 12 degrees West along said East line of the said Right of Way of T.H. & L.R.R. to the South line of the lot formerly owned by "Knapp", a distance of 91.3 feet to a point; Thence South 71 degrees – 45' East along said South line of the Lot formerly owned by "Knapp", a distance of 121.0 feet, to the Point of Beginning. Being a part of Lot No. One (1), in Section twenty-eight (28), Township thirty-two (32) North, Range One (1) East. Situated in Union Township, Marshall County, Indiana.

A hearing upon this petition will be held in the Municipal Building, 200 East Washington Street, Culver, Indiana, at which time, you may appear either in person, present in writing, be represented by agent, or by attorney, and present any reasons which you may have to the granting or denying of this petition.

Copy of this notice has been sent to the petitioner and to the owners of property affected by the petition.

You are requested to prepare your case, in detail, and present all evidence relating to this petition at the time of the scheduled hearing.

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Respectfully Submitted,

Chuck DeWitt
 Building Commissioner
 Dated: 6/17/2021

Culver Board of Zoning Appeals

Minutes: July 15, 2021

The Culver Board of Zoning Appeals met in the Culver Town Hall. 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; J.D. Uebler, acting Secretary; Dan Osborn and Building Commissioner Chuck DeWitt. Leigh Marshall was not in attendance.

A motion was made to approve the minutes of 6/17/21.

Mr Osborn made a motion to approve the June BZA Minutes which was seconded by Mr. McManaway. The minutes were approved and signed.

2021-003-B:

Joseph Garnett and Cynthia Halleck for the property located at 415 State Street, Culver, Indiana, which was tabled from the April 1, 2021 meeting. Joe and Cynthia presented the petition for four variances: 1) Rear yard setback of 15' from the required 25'; 2) Front yard setback of 8.4' from the required 25'; 3) south side yard setback of 8' from the required 10'; and 4) north side yard setback of 6.3' from the required 10'.

Mr. Osborn suggested that the front yard setback is actually around 20' if the measurement goes to the street. In discussion of the height of the tear down and rebuild project, Mr. McManaway and Mr. Adams inquired about the current height of the home (mid 20s) and directed the rebuild to be no more than 30'. Mr. Uebler asked about the impervious percentage, which Mr. Garnett said is below 45%. Mr. DeWitt said confirmed that this property is a non-conforming lot and wouldn't even be a lot today; his recommendation was to approve the variances.

During citizen input, there were two letters read by the secretary both affirming the approval of the variances. 1) Anthony and Kimberly Kerns, 603 Pearl Street, Culver, IN 46511; and 2) Joe Bourgraf, 607 Pearl Street, Culver, IN 46511.

The petition was passed unanimously.

Mr. Adams and the present Board members signed the Findings of Fact.

2021-013B: 2021-B-75497:

James Easterday on behalf of Kathryn Densborn for the property located at 50 West Shore Drive, Culver, Indiana, which was tabled from the May 20, 2021 meeting.

Mr. Easterday began his presentation by passing out new drawings to the Board. He posited that the new drawings addressed four concerns from the Board: 1) the original front yard setback of 2' has been removed from the petition; 2) the property moving towards the front yard has been stepped to offer sight line relief for neighbors; 3) the original impervious variance request of 65% was removed as the current drawings meets the 50% or lower requirement (confirmed by Mr. DeWitt); 4) the Board wanted to see the actual elevation of the property (confirmed by new drawings).

Mr. Easterday offered four hardships: 1) the property would become more of a permanent residence; 2) the home needs a new staircase; 3) need to build to the east for more family space; 4) addresses drainage and water issues.

The petition asks for a south side yard setback of 7' from the required 10'; a north side yard setback of 6' from the required 10'; and rear yard setback of 10' from the required 25'.

Mr. DeWitt stated that the stepping of the home was a significant improvement.

During citizen input, Mr. Jim Walsh of 40 West Shore Drive (directly south of the Densborn property) asks the Board to consider line of sight and the proposed terracing, the 4' setback of the current south side yard structure, and the perception of the home becoming a three story home.

There was discussion confirming that the current 4' setback does not require a variance, addressing Mr. Walsh's question.

There was discussion about the front yard setback ordinance as it relates to the 25' setback and/or line of sight requirement. Mr. McManaway shared his judgment that the ordinance does not require a property to limit their ability to build to the 25' front yard setback.

The petition was passed unanimously.

Mr. Adams and the present Board members signed the Findings of Fact.

2021-015B: 2021-B-79135:

A petition filed by James Easterday, Attorney on behalf of James A. Purucker, to approve a Variance of Development Standards to allow tear down and reconstruction of a residences with side yard setbacks 2.8ft and 8ft, rear yard setback of 17.3ft, additional accessory structure of patio in front yard, and rear yard fencing to shield utilities, from ordinance requirements of 10ft side and 25ft rear, one accessory structure of 250 sq ft and rear yard fencing of 50% open surface. The address of the property is 144 South Shore Drive, Culver, Indiana 46511.

Mr. Easterday presented the petition for demolition of the property to rebuild with the variances outlined above. Mr. Grant Currier is the architect of the project and joined online from the Linden Group, Inc from 10100 Orland Park PKWY, Orland Park, IL. He outlined three hardships: 1) insufficient current structure; 2) current footings will not support a new two-story structure; 3) the lot does not meet the minimum standard and is 21% short.

Mr. McManaway confirmed that the impervious structure was below 50% and that there was no request for a height variance. He also confirmed that the new property was a two story and not a three-story home, where Mr. DeWitt confirmed v"ia Mr. Currier that the proposed property was 33'11" in height. Mr. Adams confirmed that there was no garage. Mr. DeWitt confirmed that the rear yard fence is below 30' and Mr. Adams directed that the fence can only be applied for use as outlined in the drawings. Mr. Uebler asked about the 8'x12' existing pad where Mr. Purucker confirmed that it's only used for storage of pier.

Mr. DeWitt and Mr. McManaway discussed the ordinances about the front yard setback of 25' and the adjacent property sight line standard. The discussion and ambiguity led to Mr. DeWitt suggesting that the Board needed a work session with the Plan Commission and Mr. McManaway asking for the Town Council to offer clarity.

The petition was passed 3-1, with Mr. McManaway dissenting.

Mr. Adams and the affirming Board members signed the Findings of Fact.

2021-016B: 2021-B-79228:

A petition filed by James Easterday, Attorney on behalf of Daniel L. Cook, to approve a Variance of Development Standards to allow tear down and reconstruction of a residence on the same footprint with height not to exceed 35ft, with ordinance requirement of not to exceed height of previous structure. The address of the property is 594 West Shore Drive, Culver, Indiana 46511.

This is a tear down project with the exact rebuild on original footprint. Mr. DeWitt asked if the Cooks own all property (referred to it as Thornburg property) and whether there would be interest in consolidation of the multiple parcels in the trust. Mr. Easterday cited case Lake County vs. Lane as case law that gives the Cook's ownership of the trail easement.

Mr. McManaway, Mr. DeWitt, and Mr. Adams discussed the multiple parcels and accessory structures being built across the road. Mr. DeWitt wants to consolidate parcels while able to during the rebuild process. Mr. Adams asked about impervious structure which meets the requirement. Mr. Adams was concerned about the proximity to the road of the new structure. Mr. Easterday reminded the Board about the water hardship and rust that has been created in the house. Mr. Uebler asked about site plans being provided to confirm the original footprint would be preserved. Mr. Adams and Mr. McManaway agreed that the Board does not need a site plan given that the Mr. DeWitt's office would not approve the construction permit if the site plan is different.

During citizen input, Emily King of West Short Circle confirmed that a home did not need to leave an existing wall to keep the existing setbacks on a rebuild on same footprint. Mr. DeWitt confirmed that a wall did not need to be left during demolition. Mike and Patricia Stallings were present to share that the Cooks had done a 180-degree turn to make this project work. Mr. Bill Cleveanger of the Town Council confirmed that the rebuild will not exceed 35'.

The petition was passed 3-1, with Mr. Adams dissenting.

The affirming Board members signed the Findings of Fact.

2021-017B: 2021-B79483:

A petition filed by James Easterday, Attorney on behalf of Joan K. Brandt, to approve a Variance of Development Standards to allow tear down and reconstruction of a residence on the same footprint with height not to exceed 35ft, with ordinance requirements of not to exceed height of previous structure. The address of the property is 280 West Shore Drive, Culver, Indiana 46511

Mr. Easterday presented the petition for the demolition of the current home followed by a rebuild on the same footprint. The request is for a height variance to be granted for 35'.

Mr. Dean Jones of Mirar Development, Inc is the architect on the project and joined Mr. Easterday in the presentation of the petition.

Mr. Adams pointed out that the property is very close to lot lines on all sides of the home, and Mr. McManaway shared his desire to improve the impervious percentage without the patio concrete slab. Mr. Adams probed the extent to which the concrete patio slab is a part of the original footprint.

Per Mr. Adams' request, Mr. Jones tried to confirm the current height of the home but did not have the exact number. He thought it was in the twenties. Mr. Adams shared concern about the homes in the area will get higher and higher given the origination of the 35' ordinance was to prevent the homes in the area from doing so.

Mr. McManaway and Mr. DeWitt discussed the extent to which the footings of the current home extended to the front yard structure. Mr. McManaway wanted to certify where the footings are located. Jane Mitchell of 270 West Shore shared her observations for how close the porch is to the water and suggested it was 5'.

Mr. Easterday suggested that he needed to find the grade to measure for height given the uncertainty about the current height and request for the height variance. Mr. Adams also asked to see impervious percentage.

Mr. Easterday asked to table this petition to the August meeting, and Mr. Adams agreed.

Old Business:

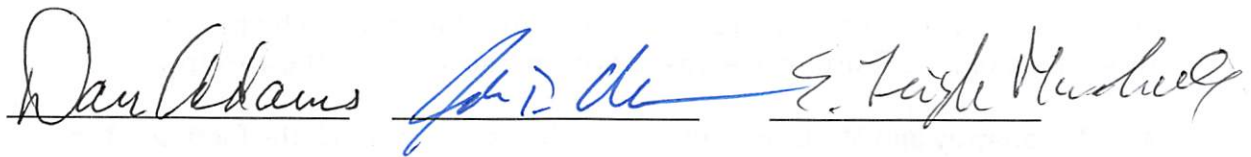
There was no old business.

New Business:

Mike and Paricia Stallings shared during citizen input their frustration that the variances of petitions were being changed without proper public notice. Mr. Stallings and Mr. McManaway also discussed at length the ordinance of the 25' front yard setback and adjacent property common line of sight for L-1 zoned properties. It was determined that a work session would be scheduled between the Culver Plan Commission and the Culver BZA.

The meeting was adjourned at 9:35PM.

Submitted by J.D. Uebler

Three handwritten signatures in blue ink are written over horizontal lines. The first signature is 'Dan Adams', the second is 'JD Uebler', and the third is 'Leigh Marshall'.

Dan Adams

JD Uebler

Leigh Marshall

Two handwritten signatures in blue ink are written over horizontal lines. The first signature is 'Barry McManaway' and the second is 'Dan Osborn'.

Barry McManaway

Dan Osborn