

## **Culver Board of Zoning Appeals**

### **Minutes: June 16, 2022**

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 at 6:30PM and led in the Pledge of Allegiance. Secretary John Uebler called roll call. The Culver Board of Zoning Appeals met in session with the following in attendance: Dan Adams, President; Barry McManaway, Vice President; Dan Osborn, John (JD) Uebler, Secretary; and Building Commissioner Chuck DeWitt. Mr. Andrew Melshen was not present. Ginny Munroe, Town Manager, was also present.

**Approval of Minutes:** Minutes for the May meeting were not available.

Mr. Adams announced that petitions 2022-009B and 2022-010B would not be heard at the meeting as the petitioners pulled them, so only petition 2022-011B would be heard.

### **2022 - 011B**

A petition filed by Circle City Property Group to request a variance of development standards to allow construction of a deck with a zero-foot setback from the property line on the north side of the property located at 115 W Marmont Street, Culver, Indiana 46511, Marshall County Parcel #502120202014000014.

Michael Gilley presented on behalf of Circle City Property Group. Mr. Gilley explained that he bought the property in September of 2021. He explained he had a son at Culver Academies and that they had a difficult time finding a place to stay when here. His family decided to buy a house in Culver and he explained how difficult that was because of limited stock in Culver. He said that once they bought the house, they realized there was no place to grill food in the back of the house. They didn't think about it when they bought the house. After much thinking and planning, they came up with a plan to try to build a deck on the front, left side of the house in the side yard. He explained that there is no back yard for the elevation of the house to the kitchen. They felt that building on the side would provide a place for connecting to the house, so that they could grill and gather outside the house. It's about 16 feet by 23 feet. He discovered they could not build within 10 feet of the property line, but that would leave him only 6 feet of space, which would put the grill too close to the house. He said that is what made him file for a variance. He explained that the property to the left of him is a thrift store that has a huge side yard. He took pictures of the property to show the BZA members. He showed the BZA where he'd build the deck and explained that it leaves plenty of property next to the store.

Mr. Adams asked about a door on the east side. Mr. Gilley showed where the kitchen is and what he'd have to do to build a deck off of it. Mr. Adams asked about the setback on the alley behind the house. Mr. DeWitt said it is 25 feet in back and in front. Mr. Uebler asked if the home had variances when it was built. Mr. DeWitt said no. Mr. Osborn said the house looks like it takes up almost the whole lot and wondered about the impervious space. Mr. McManaway pointed out the amount of green space. Mr. Gilley said there is no area outside to sit outside to eat or gather. Mr. Uebler asked if he would have to build up and Mr. Gilley explained he would have to build up some. Mr. DeWitt said, "30 inches." Mr. Uebler asked if he wanted to go all the way to the property line, and Mr. Gilley said, "I don't have to go all the way to the property line," but that once he found out there was only 6 feet there, he felt it wasn't worth doing at just 6 feet. Mr. McManaway asked what the neighbors thought, and Mr. Gilley said he hadn't had any of them say anything and that he didn't think it would obtrusive. Mr. Adams said that he had someone from the thrift shop talk to him about it and their concern was whether they decided to sell their place one day and then resale could become a problem.

Mr. Uebler explained that the board had to be concerned about hardship and that usage of a grill wasn't really considered a hardship issue, and so for him, he wouldn't be able to say a hardship going to a zero feet property line would work for him, but maybe there would be a threshold that he would be okay with. Mr. Gilley said it didn't have to be 16 feet, but he wanted it to be usable and building at 6 feet wouldn't be practical. Mr. Adams asked about a hot tub on the plan, and Mr. Gilley said he had purchased one, but he never put it in once he realized he had this problem. Mr. Adams asked what the distance was between the east side of the house and the alley (if it was more than 25 feet). Mr. Osborn asked if the east side was paved. Mr. DeWitt said, "Yes." The members looked at the plan to determine if there was space behind the house.

Mr. Gilley explained that the value of his home was worth a lot more than the thrift shop and Mr. Adams explained that the value of the property didn't affect their decision. Mr. McManaway said he agreed with Mr. Uebler that if it was on the east side of the alley, it wouldn't be imposing on other properties as much, but that he knows that is not what they are discussing. Mr. Gilley asked if he could build a second-floor deck off the back of the house. Mr. DeWitt said he would need a variance for that, too, so Mr. Gilley asked if they were more comfortable with that idea. Mr. McManaway said they would have to consider whatever is before them. Mr. Gilley said if he needed to apply for another variance to build off the back of the house, he would do that. He didn't want to waste his time if they weren't open to that, though. Mr. Osborn said that they could not tell them him how they would vote. Mr. Adams said there would also be new members at a meeting in the future because Mr. Uebler was leaving the board.

Mr. Adams asked about the garage area to see if there was a way to get to the kitchen from it and Mr. Gilley said there wasn't a way to connect them, and he'd have to build stairs or a deck from the kitchen because there was no way to get from outside of the house to the inside. Mr. Adams pointed out the doors. Mr. Gilley said you have to go through the inside

of the house downstairs to get to the backyard. Mr. Osborn asked where the kitchen is. Mr. Gilley pointed out where it and the garage is. Mr. Gilley explained the interior setup of the house. Mr. Gilley explained a deck would have to be on the second floor of the house if he wanted to exit the kitchen to go outside. He'd have to take windows out and build a deck across the back of the house. Mr. Osborn explained that if they go to finding of facts, it wouldn't likely pass, so Mr. Gilley said he would need to consider building off the back of the house. Mr. Osborn explained that they would not be able to say how they would vote, but that it would be more realistic to do that. Mr. Adams offered for Mr. Gilley to withdraw the petition and he said he would like to do that. He withdrew and thanked the board.

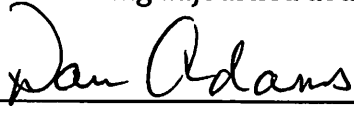
Mr. Adams explained that the other two petitions would be coming back to a future meeting. After some discussion of these two properties coming back, Mr. Adams asked if there was old business. Mr. DeWitt said they just covered old business, but that there was new business. He explained there was a violation on South Main Street with someone building without a permit. Mrs. Munroe explained they built a lean to on a garage three feet off the property line. Mr. DeWitt explained he wrote a letter to them. Mr. Adams asked about a house on Davis and Obispo and a garage that was going to be built. Mr. DeWitt explained how long they had. Mr. Adams said they should probably be reminded of the time left. Mr. DeWitt said he'd stop in and talk to the contractor. Mr. Osborn asked about the house on West Shore next to Chadwick. He said they were laying a lot of concrete there and asked if Mr. DeWitt was checking it. Mr. DeWitt and Mrs. Munroe said they had checked it. Mrs. Munroe also said they were told they had to move a wall inside of a Nipsco pole that they had built outside of it.

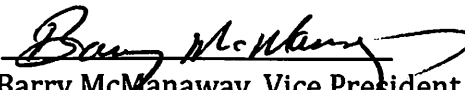
Mr. Adams asked about new business and Mr. DeWitt said there was so far one new case to come in. Mr. McManaway asked about property on Sage and asked if they were moving forward with a project. Mr. Uebler asked if they were allowed to take public input for the withdraw property. Mr. Adams said he would allow that and asked if there was any further public input. Mr. Uebler said he thought the owner of the property should at least be given a set of the standards they use to make decisions and an understanding of the process. Mr. Adams agreed that the owners could be given the three questions they have to answer. Mrs. Munroe also said it would be helpful if the application online had those questions and an explanation of the process. Mrs. Munroe suggested talking to Ty Adley about adding these to the application process. Mr. Uebler said that a majority of petitioners who come in without a lawyer don't have an understanding of the process. Other BZA members agreed that more information would be helpful to the petitioners.

An audience member asked how an addition was defined. She wondered if a deck was considered an addition. Mr. Adams said if it was connected, it was an addition. Mrs. Munroe said that it is however the zoning ordinance defines it. Mr. Russ Mason (audience member) explained that you can build a separate deck on the back of the house 10 feet off the property line if it is treated as an accessory structure, which is a structure not attached to the house. He explained that this has happened before.

BZA members thanked Mr. Uebler for his work on the BZA and said he would be greatly missed. Mr. Uebler explained how well the board works because of its support to the new people who joined. He said they helped him learn and he appreciated that from each of them. Mr. Uebler said that they made it easy and helpful for him to join the board. Mr. Adams said he would be a great addition to the school board.


The meeting adjourned at approximately 7:12 PM.

  
\_\_\_\_\_  
Dan Adams, President

  
\_\_\_\_\_  
Barry McManaway, Vice President

\_\_\_\_\_  
John Uebler, Secretary

\_\_\_\_\_  
Andrew Melshen Dan Osborn

  
\_\_\_\_\_  
Dan Osborn