



# CICERO / JACKSON TOWNSHIP BOARD OF ZONING APPEALS

## PETITIONERS:

**Terry Davis**

## BZA MEETING MINUTES

07/17/14

7:00 p.m.

Chairman Art Hall called the Cicero/Jackson Township BZA meeting to order at 7:00pm and the members were present or absent as follows:

### ROLL CALL

**Present:** Art Hall - Chairman  
Brad Baker - Vice Chairman  
Bruce Freeman  
Dan Strong  
John Culp - Legal Counsel  
Paul Munoz - C/JT Plan Director  
Sally Mangas - Recorder

**Absent:** Mark Thomas - Secretary

### 1. DECLARATION OF QUORUM:

Chairman Art Hall declared a quorum with 4 of 5 members present. Chairman Hall informed the petitioner that there are only four (4) members present and that it would take three (3) of the four (4) members to vote positive to pass his petition this evening. The petitioner was asked if he would like to table his request for another month to which he remarked that he would like to continue on tonight.

### 2. APPROVAL OF MINUTES:

Dan Strong made a motion to approve the 06/19/14 meeting minutes. Bruce Freeman seconded the motion. All members present were in favor.

### 3. OLD BUSINESS:

**Docket #:** BZA-0514-009-R3

**Petitioner:** Terry Davis

**Property Address:** 950 S Main Street  
Cicero, IN 46034

**Development Standards Variance:** To allow for an accessory structure to be placed on a property instead of the primary structure whereas the ordinance states that an accessory structure can be placed on the property prior to the primary structure only when it is related to the primary structure in its uses.



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Chairman Hall began by stating that this petition was tabled at last month's meeting and needed to be untabled so that they may proceed.

Dan Strong made a motion to untable this docket. Brad Baker seconded the motion. All members present were in favor.

Chairman Hall began by stating what had been discussed at last month's meeting. He reiterated that they had not been real happy with the metal pole barn construction; the reason being that it is in a residential neighborhood and they would like to carry over the look of the neighborhood to what he does. Chairman Hall went on to ask Mr. Davis what he would like to add this evening.

Mr. Davis introduced himself as Terry Davis, residing at 1160 Shoreline Drive Cicero. He's been here for twelve (12) years, his wife Lisa was able to be here as well. Mr. Davis went on stating that he had submitted a list of requests that were recommended to Mr. Munoz, just to get some things down in writing that he would agree to such as materials to build it out of. He further stated that he had gone to Menards and was able to obtain a sketch of what the building would look like from the front. He showed the board a photo stating this is actually the front and that is the back with a side door on the side. Mr. Davis stated that he had gone out and gotten new quotes for shingles and textured vinyl siding; he further stated that that is what he has agreed to do if it meets the board's approval. Mr. Davis stated that at one point someone had mentioned lap board/cement but that it was quite a bit more expensive than the vinyl. Chairman Hall asked if it was still to be a post construction to which Mr. Davis stated that it is. Chairman Hall went on to ask if he knew if they attached the vinyl right to the post to which Mr. Davis stated that they actually put down sheeting first. Chairman Hall asked if the sheeting is particle board or if Mr. Davis knows what it is to which Mr. Davis replied that it is 1/2" OSB Wall Sheeting and the roof sheeting is the same, OSB Roof Sheeting. Chairman Hall asked the board if anyone had any questions with what Mr. Davis is planning to do. Mr. Strong asked Mr. Munoz if he had reviewed the submissions and if everything looked ok to which Mr. Munoz stated that he had. Mr. Strong went on stating that according to the ordinance...by looking at what has been presented it appears that Mr. Davis is building a 19.5' tall building, it's what the bottom of the paper said, and the ordinance allows for a 18' tall structure. Mr. Davis asked at the gable to which there was some discussion and Mr. Strong stated that he was looking at the picture he had shown them and at the bottom...Mr. Davis went on to tell the board to disregard that, that the quote comes with a 12' ceiling and the reason he went with 12' over 10' is because at some point he may want to put a car lift in there to store an extra car. Mr. Strong went on to ask if it would then be under the 18'...to which Mr. Davis said yes the inside ceiling height would be 12'. Chairman Hall asked how wide the building was going to be to which Mr. Davis stated 24'. Chairman Hall went on to figure that at 12' and it's a 4/12 pitch so another 4' on top of the 12' so about 16' to the truss...so it would be roughly 16' up there...to which Mr. Strong stated that was fine he had just seen that on the bottom and wanted to clarify. Mr. Strong then mentioned to Mr. Munoz how they had discussed not ever having a primary structure on the property but if he ever wanted to build a primary structure and this structure is 5' off the back of the lot and he moves it up 25'-30' would that leave enough room for a primary structure...it was mentioned that the lot is 165' deep...Mr. Munoz stated that the lot size would be restrictive on



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building to begin with; he further remarked that square footage wise if you built a two-story you would probably be ok because the front setback is roughly 25'-30'. Mr. Strong stated that he thinks that it is good that Mr. Davis wants to leave a tree in the back of the lot to which Mr. Davis stated that the neighbors right behind had asked if he could keep the tree; he further stated that that is why he was wanting to move the structure up 25'-30. Mr. Davis did add that he would be taking some branches down but the tree would be staying. Chairman Hall asked if there were any other questions or comments to which Mr. Baker asked Mr. Davis what he was planning on doing with the floor of the building to which Mr. Davis stated that it will be concrete. Mr. Davis remarked that they had discussed the driveway before and it will eventually be asphalt or concrete but they had told him he could have a couple years and he could start with gravel. Chairman Hall remarked that they had not agreed upon that yet but it is not out of the question. He further stated that that would be something they would attach to it; legally you have to put in the pavement right away but we will work with that one. Mr. Davis stated that that would help him out with expenses. Chairman Hall asked if there would be any utilities to which Mr. Davis stated that there would not be any electricity or plumbing to begin with however if he puts a car lift in there would eventually be electricity but that's maybe 2-3 years down the road. Chairman Hall stated that that lot should have city utilities so there is no question about future septic. Mr. Strong asked that since there will probably never be a primary structure does Mr. Davis foresee any outside storage of any vehicles or anything like that to which Mr. Davis stated no. Chairman Hall pointed out to Mr. Davis that with something like this they always attach that there can never be any living quarters in the building and he can never run a commercial business out of the doors. Mr. Davis stated that every time he met with Mr. Munoz that was stated...Chairman Hall stated that they will file these conditions legally so they are in place to which Mr. Davis stated that it would not be a problem. Chairman Hall asked if there were any other questions. Mr. Strong asked what the time frame is that Mr. Davis would like to do this in; Mr. Davis stated February or March of next spring. Mr. Strong stated that the reason he was asking was because he thinks that a commitment should be added that it's done within X amount of time so that if the ordinances change they would not impact this they would not have to come back because this may not fit with the new ordinance. Chairman Hall stated that the likely timeframe is within a year. Chairman Hall stated that the legal requirement is that they open a public hearing.

Bruce Freeman made a motion to open the public hearing. Brad Baker seconded the motion. All members present were in favor.

Chairman Hall stated that there is no one here from the public.

Bruce Freeman made a motion to close the public hearing. Brad Baker seconded the motion. All members present were in favor.

Chairman Hall stated that the public hearing is now closed. He then asked the board if they had any final questions. Mr. Munoz remarked about the landscaping on a building that long; he further stated that he knows there will be the tree...Mr. Davis stated that he did leave a couple hundred dollars allowance in there for landscaping. Chairman Hall asked if they had anything in writing on landscaping



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to which Mr. Munoz stated that on a case like this, an accessory structure, there is not; there are certain standards for primary. Chairman Hall stated that they could approve this contingent on Mr. Munoz approving a landscape plan which will be a minimal landscape plan but when they have big building with long blank walls they like to have a little bit of landscaping. Mr. Davis stated that it sounded good.

Dan Strong made a motion to approve docket BZA-0514-009-R3 with the following commitments; a landscaping plan is to be submitted to Mr. Munoz for his approval, that they allow 24 months or 2 years for the drive to be either paved or concrete and that would be effective from today's date, there are to be no living quarters attached to your deed as well as no business operated out of that facility, that construction is completed 1 year from today which would be July 17 of 2015, and that there would be no outside storage but our ordinance does not allow for that anyways. Brad Baker seconded the motion. All members present were in favor.

Chairman Hall stated to Mr. Davis that he has his variance but he needs to work with Mr. Munoz to get his commitments put down and then get his permit. Mr. Davis asked when he would need to get his permit if he begins building in February to which Mr. Munoz replied that he would have 4 months from when he got the permit to start the project so he would wait until the end of this year.

#### **4. NEW BUSINESS:**

None

#### **5. PLAN DIRECTOR'S REPORT:**

Mr. Munoz notified the board that there has been a stop work order placed on the Waterfront worksite by the State of Indiana. He further stated that it came down to the fact that the plans that the town have on file and the plans that the state have on file do not match with what is being constructed. He also commented on the fact that they have been given ample opportunity through multiple meetings to fix the issue and it never happened. The state received an anonymous violation letter about the construction on the site...Chairman Hall asked what an anonymous violation letter was to which Mr. Munoz responded that things were happening on site that needed to be addressed and did not meet state standards. Chairman Hall asked if this would have been a citizen who wrote the letter; Mr. Munoz stated that it could have been a citizen, a disgruntled contractor, it could have been anybody. Mr. Munoz stated that they meet with them and the state and that the state had put a stop work order until all of the corrections have been made and the correct plans have been submitted to them. Mr. Munoz stated that they did submit a variance letter to the state that they could do outside landscaping and outside construction work to the aesthetics of the project, nothing structural, that way they could still be moving forward with some part of the project while they are still submitting their plans to the state and getting other things taken care of. Chairman Hall stated that he had spoken with the owner of the worksite and he had stated that he planned on starting dock work this week; Chairman Hall asked Mr. Munoz if he knew anything about this. Mr. Munoz stated that he had been told 2 or 3 weeks ago that in 2 or 3 weeks he would be starting on that. Chairman Hall clarified that we do not have any jurisdiction over the docks to which Mr. Munoz agreed however he stated that they require that a portion of



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the docks be completed before the restaurant can open because of the parking variance. There was a brief discussion on the current condition of the docks.

Chairman Hall asked Mr. Munoz if he had anything on the Ordinance updates to which Mr. Munoz stated that he had emailed a draft and some general ideas of some things that we could potentially change. Mr. Munoz stated that they had just had their budget hearing for 2015; he stated that the town had informed all of the department heads that they need to cut their budgets by 5% for the remainder of this year and an additional 5% over the course of next year. Mr. Munoz stated that he was able to do that and still have some finances left over. His proposed budget for next year is to look at finishing some of the other ordinance updates that have been brought up in general conversations from some of our meetings; aesthetic overlay districts for downtown, certain architectural standards, and a couple of zoning issues we may try to clarify. Mr. Munoz stated that he is hoping by September to have the Comprehensive Plan ready to be adopted and also the Ordinance Updates. Chairman Hall stated that he has actually not had the time to take a look at the ordinance updates yet; however, he stated that they had discussed trying to put some kind of limit on the heights of smaller accessory buildings and asked if that was in there. Mr. Munoz stated that he too has not had a chance to look at all of them yet. Chairman Hall stated that you could have a 6X8 building 16' tall; that's the limit now. He further remarked that they need to think about an ordinance for accessory structures below a certain square footage.

Mr. Culp asked Mr. Munoz if drainage was an issue with the Waterfront because he had received some emails from Pat Comer and others. Mr. Munoz stated that he was aware of it and a lot of it was due to the heavy rain. Mr. Munoz further stated that there had been a lot of work done out there and they had moved some dirt around, the water was flowing onto the sidewalk, Mr. Comer then informed Mr. Munoz that he needed to submit a letter to them letting them know that it needed to be repaired and a timeline, Mr. Munoz did that and they installed a silk fence. Shortly thereafter Mr. Comer contacted Mr. Munoz and stated that everything looked good then 2 or 3 weeks later he came back and informed Mr. Munoz that it had been installed wrong and that Mr. Munoz needed to write them another letter stating that some of the fencing had been broken due to construction work in the area. Mr. Munoz stated that he was about to write the letter when he realized they were going to have to write the variance letter for them to do the exterior work so he put all of the storm water issues into the variance letter stating that the storm water issues have to be repaired prior to any other construction taking place on that property. Mr. Culp asked Mr. Munoz if Mr. Boyd seemed agreeable with all of this; Mr. Munoz stated that all of the other people in the investment party are agreeable and they have informed Mr. Munoz that they are making sure that Mr. Boyd takes care of things properly. Mr. Strong spoke about the drainage towards the lake to which Mr. Munoz stated that they have not had a chance to do any other landscaping or other changes such as fences and concrete yet but he believes in the end that the sheet drainage will be correct but right now it does flow more towards the parking lot and then out onto all of our stuff. Mr. Munoz further stated that they are aware that if they are going to sheet drain it has to sheet drain towards the water.

Mr. Munoz informed the board that there are currently 3 or 4 problem properties in the community that he is working on. These properties are either seriously dilapidated, rental properties that should probably not be inhabited or should be condemned. Mr. Munoz stated that he has been looking through our ordinances and



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condemning properties is not something that we have done previously...Mr. Culp agreed...so making sure that all of the abatement notices, procedures, processes involved are followed to the T, we're trying to focus on that and make sure we're doing it right so in the future it will be a lot easier, we'll know our form letters are correct, our processes are spelled out correctly in the letters and we know what we need to do according to Indiana Code and our ordinances. Mr. Munoz stated that Mr. Culp has just signed off on the letter so we are hoping to get these letters out this week and get those properties taken care of. Chairman Hall asked if the properties were in "old town" or out in the country to which Mr. Munoz stated "old town". Mr. Culp stated that under our unsafe building code ordinance, which is one of the ones Mr. Munoz is proceeding under, the Town Council at a public hearing will have the right to actually declare that an unsafe building and then we can proceed from there. Mr. Culp asked Mr. Munoz if there was a budget for if we have to do the demolition ourselves to which Mr. Munoz stated that currently we do not. Mr. Munoz further stated that Mrs. Unger is aware that that is something we need to look at and she stated to Mr. Munoz that if push came to shove there is an area where that money can come from. Mr. Munoz stated that in an email and last week at the budget hearing he did notify the town council that he was moving forward with these and if they had any issues to let him know now because if the processes are not followed there could be some legal fees that come out of this or fees to tear down the property. Mr. Culp stated that we do have the right if we have to demolish to file a lien against the real estate.

## **6. CHAIRMAN'S REPORT:**

None

## **7. LEGAL COUNSEL REPORT:**

None

## **8. PUBLIC COMMENT:**

None

## **9. BOARD MEMBERS COMMENTS:**

There was a brief discussion about the walkway across the lake and how it ends abruptly. Mr. Munoz stated that Mr. Cambre and himself had a rain garden that they had received funding for from a grant organization for in front of the Waterfront but for different reasons the Storm Water Board decided they did not want to move ahead with that project so they have to decide what to do with that money. Mr. Cambre and Mr. Munoz are going to be looking into a decorative, really nice, quality rain garden for over where the walkway ends that will help with the sheet drainage off the hill into the reservoir. Mr. Munoz further stated that they will be looking to further extend that trail to run towards the water along the bank and curve out with a pedestrian walkway across to where the trail begins at the park. Mr. Munoz stated that they are get asphalt and concrete quotes and also looking at the landscaping.

There was some discussion about the trash trapping in the lake along the docks on the west side of the bridge. Mr. Munoz spoke about some netting that could go along both sides of the docks that would kind of eliminate the ability for a lot of the stuff to get back in that area. Chairman Hall suggested they try to have a brain storming meeting with any members of the Hamilton North Chamber of Commerce who work with this type of





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problem, Morse Waterways, anyone who works with water engineering to see what the possibilities are. Mr. Munoz stated possibly bringing something to the Town Council and seeing if they are comfortable with it. There was further discussion about how shallow the water is around the docks and how the "stuff" is coming down from the creeks and getting caught behind larger debris around the docks. Mr. Strong asked Mr. Munoz if he knew if the town was still planning on moving the town docks or if there had been any changes to which Mr. Munoz stated that there is still a lot of discussion about that and as far as he knows he is paying to have that done. He further stated that they are going to be turned and run parallel with the causeway. Chairman Hall discussed briefly about the Morse Waterway Water Company having their permits and that they will begin dredging in August. The Water Company has been told that they may dredge as much as they want down to the original lake bottom. Chairman Hall further added that they will be dredging for the next 2 years and once the money runs out they will stop but they will be on location looking for more work so it may be a good time to get a good rate on having some work done. Mr. Culp asked where everything was going to be hauled to; Chairman Hall responded to a gravel pit on River Road. Chairman Hall gave a brief history of the Water Company going from Indianapolis Water to Citizen's Water and the benefits of being a public trust now. Chairman Hall further stated that Citizen's is looking to put money into the lake to sustain the lake. There was also a brief discussion about the Upper White River Watershed; who belongs such as Hamilton County, Zionsville and Muncie among others in the partnership and what they do such as helping with public education, helping us meet requirements for storm water permits. Mr. Munoz stated that the 319 Grant was actually from the Upper White River Watershed.

### **10. NEXT MEETING:**

**August 21st, 2014 at 7:00 p.m.**

### **11. ADJOURNMENT:**

Brad Baker made a motion to adjourn and Bruce Freeman seconded the motion. All members present were in favor. The meeting was adjourned at 7:40 pm.



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***Signature on Official Documents!***

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Art Hall, 2014 C/JT BZA - Chairman

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Brad Baker, 2014 C/JT BZA - Vice Chairman

\_\_\_\_\_  
Mark Thomas, 2014 C/JT BZA - Secretary

\_\_\_\_\_  
Sally Mangas, C/JT BZA - Recorder

Date: \_\_\_\_\_

Location:  
Cicero Town Hall  
70 N Byron Street  
Cicero, IN 46034