



# CICERO / JACKSON TOWNSHIP BOARD OF ZONING APPEALS

**PETITIONERS:**

**Terry Davis**

**BZA MEETING MINUTES**

**06/19/14**

**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  
Sally Mangas - Recorder

**Absent:** Mark Thomas - Secretary  
Paul Munoz - C/JT Plan Director

**1. DECLARATION OF QUORUM:**

Chairman Art Hall declared a quorum with 4 of 5 members present.

**2. APPROVAL OF MINUTES:**

Dan Strong made a motion to approve the 05/22/14 meeting minutes. Bruce Freeman seconded the motion. All members present were in favor.

**3. OLD BUSINESS:**

None

**4. NEW 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.**



## CICERO / JACKSON TOWNSHIP BOARD OF ZONING APPEALS

Chairman Art Hall asked if Mr. Davis was present to which Mr. Davis acknowledged he was. Chairman Hall went on to explain to the petitioner that there were only 4 of the 5 members present and that he does have the opportunity to table his request until next month if he so desired, until all five members of the board are present; reminding him that it would take 3 out of 4 votes to pass his variance tonight. The petitioner declined this offer.

Chairman Hall asked Mr. Davis to briefly explain what he is wanting to do. Mr. Davis went to explain that his wife and he had moved up here 13 years ago and currently live at 1160 Shoreline Drive which is approximately a block and a half from the location in question which is an empty lot. He stated that they moved up here because of the water, they like to boat, and he has a couple of old cars. Mr. Davis went on to say that he would like to build a garage before the primary house to store a boat and a couple of cars in. He went on to state that he did speak with Mr. Munoz a couple of weeks before he purchased the lot to see if this was feasible and he stated that Mr. Munoz had said it was good with him but he would just have to go in front of the zoning board and see what they have to say. Chairman Hall stated that as to the variance Mr. Munoz has no authority to which Mr. Davis stated that yes he understood and he had taken that risk when he purchased the lot. He felt that he had gotten a good deal on the purchase of the lot. Mr. Davis went on to state that the lot is 40X160; not a very wide lot but it is very deep. Currently he stated that the back third of the lot has a trash pile filled with bricks, a swing set, neighbors tree branches from the last ten years too. He went on to say that that is where the garage would go so the first thing he would have to do is to clean out the lot.

Chairman Hall stated that Mr. Munoz was not able to make it tonight so maybe Mr. Davis would be able to help with this because Chairman Hall stated he was sure this had been taken care of. The lot is zoned an R3 with a setback of 15' on side yards, which is 30' and a 24' building would not fit without violating the setbacks. Chairman Hall asked Mr. Davis if he had discussed that at all to which Mr. Davis stated no but it's a 40' lot and Mr. Munoz had stated the setbacks were 5'. Chairman Hall remarked that apparently Mr. Munoz had defaulted to the originals which is fine, in the books today it is 15', but Mr. Munoz must be reverting back to the original setbacks when the subdivision was built which were 5'. Mr. Culp stated that that was a requirement in the original plat. Mr. Strong stated that Mr. Munoz did make mention of that in his considerations.

Chairman Hall went on to ask the board members if there were any questions. Mr. Baker asked what the rear setback is to which Chairman Hall said he believed it to be 15' to which Mr. Strong said it is 5' for an accessory structure. There was some discussion amongst the board members about this to which Mr. Strong stated that the property would be dealt with as an R5. Chairman Hall stated that R5 Standards would be used for this property because it was originally an R5 to which Mr. Strong agreed.

Mr. Baker asked Mr. Davis if he had decided the location for the accessory structure yet. Mr. Davis said he planned on taking the building back as far as he could. He went on to say that he and Mr. Munoz had discussed this and Mr. Munoz had told him that his main concern was that the main building would have to be at least as big as the garage so he was giving him at least enough space there. Mr. Davis stated that if it were 10' he would go 10' off the back but Mr. Munoz had made the comment



## CICERO / JACKSON TOWNSHIP BOARD OF ZONING APPEALS

that it was 5'. Mr. Baker stated that it was interesting that it was only 5' off the rear to which Chairman Hall stated that that is the old R5 with its small lots, it would not be permitted under an R3. Mr. Strong stated that it is 5' for an accessory structure but 15' for a primary residence. Mr. Davis went on to explain that the original lot was 40X160 but sometime in the past, he has only owned the lot for 3-4 months, there was an alley way that was marked off, the neighbors have all told him that they got an extra 5' and when he did go and do a transfer of the deed it did come back as 40X165. Chairman Hall stated that he assumed that whatever the deed says it what they would go by to which Mr. Culp agreed. Mr. Freeman asked if the alley would come into play with this to which Chairman Hall and Mr. Baker both replied that it had been abandoned. Mr. Strong asked Mr. Davis if he had checked to see if there were any utility easements or anything back there in that alley that he would have to deal with to which Mr. Davis replied that he had spoke with Mr. Munoz and Mr. Munoz had told him that there were no easement issues with the lot. Mr. Culp then asked what the name of the street is if it were extended into the vacated alley. Mr. Davis stated that there is not one at this time, it is all grown over; there is no street there. Mr. Davis went on to state that at one time, before he had moved up here, it was going to be access into Cicero Shores, they were going to have an alley go behind there so there could be more properties. Mr. Davis stated that currently behind this property is 30-40 acres of farm field and no street. Mr. Culp stated that he was asking these questions because he is currently preparing a petition for the Town Council to vacate an alley between 2 lots; it was originally set as an extension of Collins Street or Collins Avenue. Chairman Hall stated that he was not aware of where that was and asked if anyone else was. Mr. Culp went on to say that it was not this property.

Mr. Davis stated that Mr. Munoz had asked him to bring a picture of what he is planning on doing. He then handed out to the board a photo of what he is planning. He stated that this is what it would actually look like however he was not able to get a picture of the doors on the 24' side. Chairman Hall asked Mr. Davis if this was a metal pole barn to which Mr. Davis stated he would call it a metal garage; but yes. Chairman Hall stated that to him this is a problem. This is being placed on a lot amongst houses, Chairman Hall went on to state that he thinks we would want the architecture to match that of the surrounding houses and garages as opposed to a pole barn. Chairman Hall went further by stating that the aesthetics of putting a pole barn...if it were in the back yard that would be one thing but it is not and it's going to be facing the street. Mr. Davis stated that it will be in the back yard once the primary structure is built. Chairman Hall went on to state that he questions that too because there is a 5' setback, you'll need a 10' driveway to get through there. Chairman Hall went on to state that he's not sure if Mr. Davis is really planning on putting a house there. Chairman Hall voiced that he has to look at it that way, it's nothing against Mr. Davis, they talk to people all the time that promise the world but he has to go by what's there and there is no house there now so he is going to assume that there never will be a house built on that property. Mr. Davis asked if he was talking about using siding or something else. Chairman Hall stated something that matches; some of the things that Mr. Munoz had sited that are requirements there, such as the pitch. Mr. Strong stated that it would actually fall under Architecture Standards and basically in that area would be the accessory structure has to match with the primary structure in sort, design, and materials. A primary building material for all facades for primary or accessory structures would be brick, natural or cut stone other accent materials such as stucco, no vinyl, aluminum, or plywood shall be permitted. Chairman Hall went on to expand that



## CICERO / JACKSON TOWNSHIP BOARD OF ZONING APPEALS

these standards would also require a 7 12 pitch and this does not appear to have that, however Chairman Hall explained to Mr. Davis that Mr. Munoz would be able to fill him in on all of this. Chairman Hall also stated that he would have to have a 1' overhang. Chairman Hall went on to say that he would like to do something similar in the future and what Mr. Davis is doing is a great thing but they have to protect the neighborhood and make sure that nothing is done that would adversely affect their property values. Mr. Davis went on to state that he was a little disappointed in the neighbors that did not show up to support him after they promised they would.

Mr. Davis went on to ask if stucco was one of the items he could use, no vinyl but it could be stucco. To this Mr. Baker stated that he would suggest hardy lap or something that would fit in pretty well there. Mr. Baker went on to state that he shared the same concerns as everyone else however he wanted to point out again that the lot is only 40' wide and questioned who would actually build a house on there; it would remain a vacant lot. He would like to figure out a way to allow this so that it would actually improve the property. Chairman Hall stated that he agreed, they just need a properly built structure that is an asset to the neighborhood as opposed to something some people may not like. Mr. Freeman questioned if they can allow Mr. Davis to build the structure without putting the primary structure there to which Chairman Hall stated that is what the variance is. Mr. Freeman went on to state that the variance is then to put it there before he builds the house to which everyone agreed. Mr. Freeman continued with asking if in 4-5 years Mr. Davis's nephew will have finished college or he doesn't finish college and he moves away then they are looking at just this structure so they are approving this structure/accessory building whether Mr. Davis ever builds a permanent home on there to which Chairman Hall and the other board members agreed. Mr. Strong stated that they either do that or have a requirement that in X number of years Mr. Davis has to build a primary structure. Chairman Hall along with the board members stated and discussed that the problem there is fitting a primary structure on the lot.

Mr. Davis revisited the discussion on the hardy lap asking if it was a siding to which Mr. Baker stated that it is a fiber cement siding. Chairman Hall stated that it looks like flat board but it's a concrete flat board. Mr. Baker went on to state that it's pretty common in current construction of new houses and so on but given the age and appearance of those other homes he isn't sure, he wouldn't be in favor of that either. Chairman Hall went on to state that they are not looking for Mr. Davis to exceed what is around there; he suggested that Mr. Davis go around and see what type of construction his neighbors have and that the board will do the same. Chairman Hall did inform Mr. Davis that they would need a commitment to certain architectural standards before they would do this. Mr. Davis acknowledged this. Chairman Hall verified with Mr. Davis that he was planning on building this in the spring to which Mr. Davis acknowledged stating that he already had winter storage set for this year and was planning on beginning in February/March. Chairman Hall then asked Mr. Davis if they were to table this for a month and have him come back with a proposal...Mr. Davis immediately stated it would not be a problem. Chairman Hall went on to state that Mr. Davis should get with Mr. Munoz because Mr. Munoz does speak with the board and it would be much easier for Mr. Davis to get the boards input through Mr. Munoz because the board cannot speak to him outside of the meetings on this topic but Mr. Munoz could express the boards feelings. Chairman Hall looked for affirmation from Mr. Culp on



## CICERO / JACKSON TOWNSHIP BOARD OF ZONING APPEALS

this to which Mr. Culp concurred that it is by state statute. Mr. Davis then reaffirmed that he needs to get with Mr. Munoz in the next month to discuss building materials to which Chairman Hall reiterated that yes he needs to discuss with Mr. Munoz on what the structure is going to be. The board would probably not approve a pole barn but they would probably a framed structure; he's envisioning a framed structure with siding, shingles, overhang, and gutters which match the character of the neighborhood so it doesn't stand out. Mr. Baker inquired as to the plans for the driveway. Mr. Davis remarked that it would start as gravel. Mr. Davis also stated that if you looked at the picture he brought, Catherine Drive has a similar structure on it right now, just down Main Street, he spoke with the owners and 5-6 years ago he believed Noblesville had approved it and it has a gravel driveway leading up to it. Mr. Baker went on to say that there are other gravel driveways he was just curious. Chairman Hall stated that Mr. Davis would have to file another variance application if he wanted a gravel driveway stating that by statute it has to be paved or concrete. Mr. Davis stated that he was not aware of that. Chairman Hall reminded him to speak with Mr. Munoz to get all of the details and that he would work with him. Mr. Strong said that Mr. Davis could request a timeframe to allow for that at some point it would be paved or concrete to meet the ordinance. Chairman Hall further stated that for example if Mr. Davis signed a commitment that within 2 years it would be paved the board might approve that, he cannot say yes or no right now. Mr. Baker mentioned that there are gravel driveways in that area, Chairman Hall stated that they are grandfathered, predating the zoning ordinances. He went on to say that that area was built close to '78...Mr. Culp agreed stating '78 or '79. Mr. Freeman stated that at one time, 2 or 3 homes north of this location, he believes someone did build a pole barn or a structure. Just as a point of reference he believed there was a pole barn built with siding. Mr. Freeman went on to say that he believed it had to be rotated because it was going to take up the entire width but he wanted to mention this for a point of reference. Chairman Hall went on to say that his feeling is that if it were to be in the back yard of a structure, Mr. Freeman stated that the one he was thinking of is in the back yard behind the house, he would be more receptive to a pole barn in the backyard of a structure then he would something that was facing the street. Mr. Freeman went on to say that they would just assume that this will probably be the only structure on there. Mr. Strong stated that with that being said and the anticipation that that will be the only structure there he wanted to notify him that typically the board will include with approvals that there will be no living quarters or business operated out of the structure and we would require that that be attached to the deed. Mr. Davis acknowledged and Mr. Strong went on stating that they do that with everything especially in a case where there is only going to be an accessory structure. Mr. Davis was notified that he would be able to run all of the utilities to the structure, water, sewer, electrical, gas. Mr. Davis did inquire as to if this was mandatory and he was told it was not and it would be at his convenience. They just wanted him to understand that because they said no one could live in there it did not mean he could not run utilities. Chairman Hall notified Mr. Davis that once they go with this it is possible that there could be a small landscape requirement as well to which Mr. Davis stated it was not a problem.

Chairman Hall asked if anyone had any other comments or questions. An individual from the public said he had one but he did not know if he could speak. Chairman Hall told him one moment and he could. Chairman Hall went on to entertain a motion to open the public hearing. Bruce Freeman made a motion to open the public hearing. Brad Baker seconded the motion. All present members approved





## CICERO / JACKSON TOWNSHIP BOARD OF ZONING APPEALS

opening the public hearing. Chairman Hall asked the individual for his name and address. The individual stated he was Tom Warner of 1049 Shoreline Drive. Chairman Hall went on to ask Mr. Warner where he was located in reference to this property. Mr. Warner stated that he lives in the neighborhood behind it. Chairman Hall clarified that he was not a next door neighbor to which Mr. Warner admitted he was not however he passes the lot "16 times a day". Mr. Warner went on to state that the building requirements that were stated seem to exceed every house in the area. He further stated that there are homes with aluminum and vinyl siding and if this does get approved it will improve the neighborhood. Mr. Warner said that he understands why they do not want a pole barn there but this structure will look better than the properties immediately surrounding it and the quality of construction would be better than what exist today; currently there is a heap of trash that about 30 cats live in. Chairman Hall stated that the standards are continually updated as time progresses. He went on to mention that anything built before 1978 they really don't have any say over but after 1978 they have say over that. Mr. Culp agreed with this. Chairman Hall went on stating that whatever statutes are in place when a structure is built are the ones they have to adhere to. Chairman Hall gave the example of there was no ordinance saying no aluminum siding until 1985 if you were built before 1985 you had that right grandfathered to you but new structure do not. Mr. Culp mentioned that the current codes have been amended and updated several times since 1978 and when we pass a new code we have public hearings, we advertise in the newspaper, and once those codes are passed those standards apply. Chairman Hall voiced that anything in the standards can be appealed with a variance. It does not mean it will be granted but you can apply, you have the right to request a variance to the current statutes on anything. Mr. Strong mentioned that Mr. Munoz had noted the Development Standards Article 7.15ED-03 Entrance/Drive Standards, Single family residential driveways, All driveways shall be concrete, concrete pavers, brick, or asphalt; this is the current ordinance. Also, Article 7.22 AR-01 and AR-02 minimum roof pitch is 7:12 for primary structure and siding for all structures have to have a textured surface. This is one of the things that Mr. Munoz made note of, a textured surface. Mr. Davis asked if the hardy lap is included in that to which Chairman Hall stated that it is very good and also a maintenance free item. Mr. Strong went on to state the other two things that Mr. Munoz made notes on do not apply if you are not planning on building a primary structure. Mr. Strong continued with the fact that the property was platted before the R3 Standards and that is why they are using the R5 Standards and that is why the setbacks are a little less.

Chairman Hall remarked that the board is just trying to maintain the aesthetics standards for the community. He further stated that if you were to come in with a proposal that looks attractive to the board and hits 8 out of the 10 things we want you to do your chances are a lot better than if you just hit 1. Chairman Hall reminded Mr. Davis that these are not demands but suggestions of what they believe ought to be in that area. Mr. Culp made a recommendation to Mr. Davis that he meet with Mr. Munoz and review all of the requirements and put it into writing so that Mr. Munoz can distribute to the board what the structure will look like, the materials to be used, roof pitch and things like that. Mr. Davis stated that he had spoken to different builders however no one wanted to give him a free drawing until he had an agreement with them and Mr. Davis did not want to do that until he had spoken to the BZA Board. He went on to state that he tried to draw with a free software program just where the building would set, he stated that he would now get a drawing. Mr. Culp went further



# CICERO / JACKSON TOWNSHIP BOARD OF ZONING APPEALS

saying that Mr. Davis would need a proposed list of covenants that he would adhere to after reviewing the ordinances with Mr. Munoz and the recommendations of the BZA. Mr. Strong stated that it's not a case of his building looking bad, in listening to the other members it's just a case of in that area and to your point that there may be other pole buildings or metal buildings there, but not being sure if there will ever be another building in front of that, do they want a metal building setting there. Chairman Hall went on to say that he feels that a well executed building will be an asset to the community just as Mr. Warner pointed out.

Chairman Hall stated that he did not want to close the public hearing but he would entertain a motion to table it and leave the public hearing open until the next meeting. Mr. Culp agreed with this. Chairman Hall asked Mr. Davis if there were any other comments or questions to which he declined. Mr. Werner stated that there were other neighbors who were not here who would like to see something there other than what's there today. Chairman Hall explained that assuming this is tabled the next meeting is July 17 so if those people are interested he highly suggest they show up or if they cannot show up to send a written statement. The board wants to know the feeling of the neighborhood. Chairman Hall went on to state that he would entertain a motion to table this until the next meeting. Dan Strong made a motion to table BZA-0514-009-R3 until the next meeting on July 17 and to leave the public hearing open. Bruce Freeman seconded the motion. All members present approved the motion. Chairman Hall stated that this has been tabled until July 17 and that Mr. Davis should let all of his neighbors and friends know who have an interest in this.

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

None

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

None

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

None

## **8. PUBLIC COMMENT:**

None

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

Bruce Freeman stated that he had gone to the Town Council meeting and they had to appropriate approximately \$25,000 to cover the cost to pave the causeway. In talking to the road people they said crowning will be higher in the middle so they had to appropriate a little bit more money. My question was, we're going to start getting a lot of these construction trucks coming off of 31 in the next couple of years and I commented well if you're going to put 3" on the bridge why not put another 3" down through the town because this road is going to get pounded, pounded, pounded. So I thought, could we take out an insurance policy to cover the roads for 5 years with the idea that if we put 2" under normal traffic based on our town it should last 5 years and the bridge should last say 8 years because of the extra thickness, the



## CICERO / JACKSON TOWNSHIP BOARD OF ZONING APPEALS

water is going to sheet off of it. But again you're going to have these trucks pounding and pounding so it may eat up that 8 years in 5 years. I was just wondering if it is possible to take out a life insurance or some type of insurance policy for say \$10,000 for \$1,000,000 to repair the road. Mr. Culp stated that anything is possible but finding a carrier and a premium that the town could afford may prevent it; however, he did not know for sure. Mr. Culp went on to question whether the Town Council had indicated they would look into it. Mr. Freeman stated that they had not and he had not presented it that way, he was just curious as to whether we were going to absorb it cost wise since we've invested this kind of money. Is this road going to last like it normally would if and when 31 starts to take off and we get this additional traffic that we normally would not have. It's just going to wear out quicker than what we financially were provided for. Chairman Hall asked if there were any other board member comments to which Mr. Werner stated that he is in the insurance business and yes you could find someone to underwrite this but something like this would cost and you would have to have a guarantee from your contractor and no one is going to give that kind of guarantee. Mr. Werner went on with a concern he has at Brinton Street in front of CVS; there is almost always a pool of water between the road and grass. Chairman Hall suggested that Mr. Werner bring that up with the Town Council. Mr. Werner went on to state that it would be nice to have some sort of drainage there or a curb. Mr. Baker agreed that there is no curb at that location. Mr. Werner continued with mentioning the ruts in the grass that the trucks are putting there. Chairman Hall restated that that would be a Town Council issue, the BZA only enforces the zoning laws, they have no authority beyond that. Chairman Hall entertained a motion to adjourn.

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

July 17th, 2014 at 7:00 p.m.

### **11. ADJOURNMENT:**

Bruce Freeman made a motion to adjourn and Brad Baker seconded the motion. All members present were in favor. The meeting was adjourned at 7:30 pm.





# CICERO / JACKSON TOWNSHIP BOARD OF ZONING APPEALS

***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

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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