

**Town of Cedar Lake-Board of Zoning Appeals  
Special Public Meeting Minutes  
March 31, 2011**

The Cedar Lake Board of Zoning Appeals held a Special Public Meeting on Thursday, March 31, 2011. The meeting was called to order at approximately 7:03 p.m. at the Cedar Lake Town Hall. Those Members present were: Jeremy Kuiper, Eric Burnham, Tim Kubiak, and Jeff Bunge, Vice-Chairman. Also present were Tim Kuiper, Attorney from Austgen, Kuiper & Associates; and Laurie Wyrick, Recording Secretary. James Hunley, Member, and Ian Nicolini, Town Administrator, were absent.

**Public Hearings:**

**Old Business:**

**1. Lighthouse - Developmental Variance**

Owner/Petitioner: DJ Cedar Lake, LLC., 1000 E. 80<sup>th</sup> Avenue, Suite 700N, Merrillville, Indiana

Vicinity: 7501 Constitution Avenue

Request: Petitioner is requesting a Variance from Zoning Ordinance 496, Title XII – Neighborhood Business (B-1) Zoning District. Section 5: Area, Width and Yard Regulations: C. Side Yard: 4) “All interior lots shall have two (2) side yards, each having a width of not less than seven (7) feet, except where party walls are used.” Zoning Ordinance 496, Title XXIII – Accessory Regulations. Section 1: General Accessory Regulations: A. 5) “There shall be a minimum six (6) foot setback from any and all side and rear property lines and a minimum ten (10) foot separation or distance from all other buildings.”

*Petitioner is requesting a Developmental Variance to allow a side yard setback of zero (0) feet; the location of the portable accessory structure to have a setback of zero (0) feet and a separation of less than ten (10) feet between the primary structure and the accessory structure.*

**Deferred from the March 17<sup>th</sup> Public Meeting.**

Attorney to Review Legals: Tim Kuiper recommended that this Item and Items #2 & #3 be heard together for the purposes of presentation and public hearing and discussion. The Board of Zoning Appeals members agreed. Tim Kuiper stated that concerning this Item and Items #2 & #3 the notifications were in order at the March 17<sup>th</sup> Public meeting and properly continued; the publications were properly completed for tonight’s public hearing.

Petitioner’s Response: Les Dewes was representing DJ Cedar Lake at tonight’s meeting. Mr. Dewes stated that the restaurant is planning to expand to offer additional restroom area, restaurant storage, beverage line and to add to the dance floor on the second story. The accessory structure is portable, allowing for mobility when required. Mr. Dewes stated that the zero (0) foot setback for the primary structure will be along approximately twelve (12) feet of the structure.

Remonstrators: None

Building Department’s Comments: Not present

Board’s Discussion: Tim Kubiak stated that the Plan Commission send a Favorable Recommendation to the Town Council concerning the property to the south and in the recommendation requested that a twenty-four (24) foot separation be maintained. Tim Kuiper explained the PUD and the Amendment to the PUD for the property located directly to the south of the restaurant property before the Board of Zoning Appeals; and that legally the setback is approved as zero (0) feet and with the PUD Amendment practically it is a twenty-four (24) foot setback.

Board’s Decision: Tim Kubiak moved to approve the Developmental Variances as presented, to include the Findings of Fact:

- The approval will not be injurious to the public health, safety, morals and general welfare of the community;
- The use and value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner; and
- The strict application of the terms of the Zoning Ordinance, as amended from time to time, will result in practical difficulties in the use of the property.

Eric Burnham seconded. After a voice vote, the motion carried by a vote of 4 to 0.

## **2. Lighthouse – Variance of Use**

Owner/Petitioner: DJ Cedar Lake LLC., 1000 E. 80<sup>th</sup> Avenue, Suite 700N, Merrillville, Indiana  
Vicinity: 7501 Constitution Avenue  
Request: Zoning Ordinance No. 496, Title XII – Neighborhood Business (B-1) Zoning District.  
Section 1: Intended Purposes: “The Neighborhood Business (B-1) Zoning District, as hereinafter established, is designed to meet the day-to-day convenience shopping and service needs of persons residing in adjacent residential areas. All business establishments in this Zoning District shall be retail or service establishments dealing directly with customers. All goods produced on the premises shall be sold at retail on the premises where produced.”

*Petitioner is requesting a Variance of Use to allow live entertainment and dancing in a Neighborhood Business (B-1) Zoning District.*

### **Deferred from the March 17<sup>th</sup> Public Meeting.**

Attorney to Review Legals: See Item #1

Petitioner’s Response: Les Dewes stated that the restaurant is planning to expand the banquet facilities with the addition before the Board of Zoning Appeals.

Remonstrators: None

Building Department’s Comments: Not present

Board’s Discussion: Eric Burnham questioned the location of the dancing and live entertainment. Mr. Dewes explained that the second floor facilities would be expanded and showed the dining and dance floor on the drawing submitted.

Board’s Recommendation to Town Council: Tim Kubiak moved to send a Favorable Recommendation to the Town Council to allow live entertainment and dancing in a Neighborhood Business (B-1) Zoning District, to include the Findings of Fact:

- The approval will not be injurious to the public health, safety, morals and general welfare of the community;
- The use and value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner;
- The need for the Variance arises from some condition peculiar to the property involved;
- The strict application of the terms of the Zoning Ordinance, as amended from time to time, will constitute an unnecessary hardship if applied to the property for which the Variance is sought; and
- The approval does not interfere substantially with the Comprehensive Master Plan of the Town.

Jeff Bunge seconded. After a roll call vote, the motion carried by a vote of 4 to 0.

## **3. Lighthouse – Special Use Variance**

Owner/Petitioner: DJ Cedar Lake LLC., 1000 E. 80<sup>th</sup> Avenue, Suite 700N, Merrillville, Indiana  
Vicinity: 7501 Constitution Avenue  
Request: Zoning Ordinance No. 496, Title XII – Neighborhood Business (B-1) Zoning District.  
Section 3: Special Use Exceptions: “The following uses may be permitted, provided they are approved by the Board of Zoning Appeals and are subject to any conditions placed upon them by the Board of Zoning Appeals.” A. “Any use permitted in a Community Business (B-2) Zoning District.”

Attorney to Review Legals: See Item #1.

Petitioner’s Response: Les Dewes stated that business is expanding and requests approval for alcohol sales for the expansion.

Remonstrators: None

Building Department’s Comments: Not present

Board's Discussion: None

Board's Recommendation to Town Council: Eric Burnham moved to send a Favorable Recommendation to the Town Council to allow alcohol sales for the restaurant in a Neighborhood Business (B-1) Zoning District, to include the Findings of Fact:

- The establishment, maintenance or operation of the Special Use or Special Exception will not be detrimental to or endanger the public health, safety, comfort, morals or general welfare, and is in accordance with the Comprehensive Master Plan of the Town;
- The Special Exception or Special Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted nor substantially diminish and impair property values within the community;
- The establishment of the Special Exception or Special Use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the Zoning District;
- The Special Exception or Special Use shall be required to comply with reasonable time limitations on commencement and duration of Special Exception or Special Use, as well as holder of rights to Special Exception or Special Use;
- Adequate utilizes, access roads, drainage and/or other necessary facilities will be provided;
- Adequate measures will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets; and
- The Special Exception or Special Use shall be in all other respects conform to the applicable regulations of the Zoning District in which it is located and the Board of Zoning Appeals and Town Council finds that there is a public necessity for the Special Exception or Special Use. The following listed Special Exceptions may be recommended by the Town Council in the Zoning Districts stated upon the terms and conditions provided for in this Section 2, of TITLE XXX:

Tim Kubiak seconded. After a roll call vote, the motion carried by a vote of 4 to 0.

**Correspondence:** None.

**Public Comment:** None

**Adjournment:** 7:15 p.m. Jeremy Kuiper adjourned the meeting.

**Press Session:** None

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James Hunley

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Tim Kubiak

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Eric Burnham

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Jeff Bunge, Vice Chairman

\_\_\_\_\_  
Jeremy Kuiper, Chairman

Attest: \_\_\_\_\_  
Laurie Wyrick, Recording Secretary