

**Town of Cedar Lake-Board of Zoning Appeals  
Public Meeting Minutes  
April 21, 2011**

The Cedar Lake Board of Zoning Appeals held their Public Meeting on Thursday, April 21, 2011. The meeting was called to order at approximately 7:02 p.m. at the Cedar Lake Town Hall. Those Members present were: Eric Burnham, James Hunley, Tim Kubiak, Jeff Bunge, Vice-Chairman, and Jeremy Kuiper, Chairman. Also present were Tim Kuiper, Attorney from Austgen, Kuiper & Associates; and Laurie Wyrick, Recording Secretary. Ian Nicolini, Town Administrator, was not present.

**Minutes:** Eric Burnham moved to approve the Minutes from the March 31, 2011 Special Public Meeting. Jeff Bunge seconded. After a voice vote, the motion carried unanimously.

**Public Hearings:**

**New Business:**

**1. Fireworks – Variance of Use**

Owner: Brian Kubal, P.O. Box 1396, Cedar Lake, Indiana  
Petitioner: Daniel Gonzalez, P.O. Box 1075, Cedar Lake, Indiana  
Vicinity: 7214 W. 132<sup>nd</sup> Avenue  
Request: Petitioner is requesting A Variance of Use from Zoning Ordinance 496, TITLE XIII – Community Business (B-2) Zoning District. Section 1: Intended Purposes: “The Community Business (B-2) Zoning District is designed to provide for the needs of a larger consumer population than is served by the Neighborhood Business (B-1) Zoning District, and is generally characterized by an integrated cluster of establishments served by a common parking area and generating large volumes of vehicular and pedestrian traffic.”

*This Variance of Use request is to allow the sales of fireworks in a Community Business (B-2) Zoning District.*

**Town Attorney Comments:** Tim Kuiper stated that the notifications and publications are in order for tonight’s public hearing.

**Petitioner’s Response:** Daniel Gonzalez stated that the unit adjacent to the one currently rented is available and Mr. Gonzalez would like to sell fireworks and the unit would store no more than five hundred (500) pounds of fireworks according to state regulations, the fire marshal completes the inspection. The business will be served by mainly foot traffic and will be open May through the Independence Day holiday in July then the product will be removed from the premises.

**Remonstrators:** None

**Building Department’s Comments:** Tim Kuiper read verbatim from a letter dated April 19, 2011 by Ian Nicolini concerning Item #1 on the agenda: “The site contains a combination of commercial and residential uses on separate floors. As such, I do not recommend a fireworks store be located beneath residential apartments. In my opinion, this creates an unnecessary risk to the people residing in the floors above.”

**Board’s Discussion:** Tim Kubiak stated concerns about the apartments located above the business. Jeremy Kuiper stated the Fire Chief, Todd Wilkening, discussed the property and variance requests and asked that the risk of fire to residents be relayed to the Board of Zoning Appeals as the property is “balloon construction”; meaning fire carries easily in the building. Eric Burnham stated concerns about lack of sprinkler system in the building. The Petitioner responded that the lack of sprinkler system is the

## Board of Zoning Appeals Minutes

April 21, 2011

Page 2

reasons that not more than five hundred (500) pounds of fireworks on the site at any given time. The tenants have moved out of the apartment above the location proposed for the fireworks store. Jeff Bunge stated concerns that the property is available for rent and may house tenants during the time the property is occupied by the fireworks store.

Board's Decision: Tim Kubiak moved to send an Unfavorable Recommendation to the Town Council to not allow the sale of fireworks in the location 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;
- The need for the Variance does not arise 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 not constitute an unnecessary hardship if applied to the property for which the Variance is sought; and
- The approval does 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 5-0. The Board suggested that Mr. Gonzalez speak to the owner of the building concerning not renting the space for the duration of time requested to house the fireworks business on site prior to the Town Council Meeting on May 5, 2011.

### **2. South Lake Sailing School – Developmental Variance**

Owner: South Lake Sailing School, 7505 W. 137<sup>th</sup> Avenue, Cedar Lake, Indiana  
Petitioner: Andrew Johnsen, 11906 Hawthorne Place, Cedar Lake, Indiana  
Vicinity: 7505 W. 137<sup>th</sup> Avenue  
Request: Petitioner is requesting a Variance from Zoning Ordinance 496, Title VIII – Residential (R-2) Zoning District. Section 4: Area, Width and Yard Regulations: B. Front Yard: "...There shall be a front yard between the building line and the highway and street right-of-way line as follows:" 4) "On all other streets, a distance of thirty (30) feet."

*This Variance of Use request is to allow a front yard setback of twenty-one (21) feet.*

Town Attorney to Review Legals: Tim Kuiper stated that the notifications and publications are in order for tonight's public hearing.

Petitioner's Response: Andrew Johnsen was present at tonight's meeting. Mr. Johnsen stated that the sailing school is planning to complete the side porch for the property.

#### Remonstrators:

A. Robert Kriegel, W. 137<sup>th</sup> Avenue, **for**, requested to see the plans then stated that the request would be an improvement to the site.

## Board of Zoning Appeals Minutes

April 21, 2011

Page 3

B. Sandy Herman, W. 136<sup>th</sup> Court, **for**, stated that the porch would be an improvement to the property.

Building Department's Comments: Tim Kuiper read verbatim from a letter dated April 19, 2011 by Ian Nicolini concerning Item #2 on the agenda: "I have no concerns about the proposed setbacks."

Board's Discussion: Jeff Bunge requested that the existing stoop be described. The Petitioner described that currently the building has a five (5) foot stoop for entering and exiting. Tim Kubiak stated that the improvements seem in character of the building and neighborhood.

Board's Decision: Tim Kubiak moved to approve a front yard setback of twenty-one (21) feet 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 roll call vote, the motion carried by a vote of 5 to 0.

### 3. Dust – Developmental Variance

Owner/Petitioner: Daryl & Denise Dust, 13225 Colfax Street, Cedar Lake, Indiana

Vicinity: 13225 Colfax Street

Request: Variance from Zoning Ordinance 496, Title XXIII – Accessory Regulations. Section 1: General Accessory Regulations: A. 3) "No accessory structure buildings shall be allowed in the front yard of any residential lot."

*This Developmental Variance request is to allow an accessory structure in the front yard of a lot, this is a corner lot.*

Attorney to Review Legals: Tim Kuiper stated that the publications and notifications are in order for tonight's public hearing.

Petitioner's Response: Daryl Dust was present at tonight's meeting. Mr. Dust stated that the property is in need of additional outdoor storage and that the lot is a corner lot. The area facing 133<sup>rd</sup> Avenue is more practical with the layout of the lot for an accessory structure. The proposed accessory structure will be twelve (12) feet by sixteen (16) feet and a copy of the structure has been submitted.

Remonstrators: None

Building Department's Comments: Tim Kuiper read verbatim from a letter dated April 19, 2011 by Ian Nicolini concerning Item #3 on the agenda: "The proposed location has roughly the same setback as the garage. Therefore, the proposed setback seems logical."

## Board of Zoning Appeals Minutes

April 21, 2011

Page 4

Board's Discussion: Tim Kubiak stated that the proposed structure would be setback from 133<sup>rd</sup> Avenue by a considerable distance. Jeremy Kuiper questioned the height of the structure. The Petitioner responded that the structure will be approximately eleven feet six inches (11' 6") in height.

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 roll call vote the motion carried by a vote of 5 to 0.

### 4. Sawaska – Variance of Use

Owner: Scott & Linda Bourrell, 12644 Wicker Avenue, Cedar Lake, Indiana

Petitioner: Cyndi Sawaska, 13305 W. 135<sup>th</sup> Avenue, Cedar Lake, Indiana

Vicinity: 12644 Wicker Avenue

Request: A Variance of Use from Zoning Ordinance No. 496 Title XIV – General Business (B-3) Zoning District. Section 1: Intended Purposes: "The following provisions shall apply to General Business (B-3) Zoning Districts: A. All business, service, storage, merchandise, display, and where permitted, repair and processing, shall be conducted wholly within an enclosed building, unless authorized as a variance, and except as otherwise permitted herein for specific uses."

*This Variance of Use request is to allow outdoor storage of horse equipment for a tack shop in a General Business (B-3) Zoning District.*

Attorney to Review Legals: Tim Kuiper stated that the notifications and publications are in order for tonight's public hearing.

Petitioner's Response: Cyndi & Pat Sawaska were present at tonight's public hearing. Mrs. Sawaska stated that the business sells horse tack supplies and having outdoor storage/display of a couple of trailers that are part of the merchandise for the business, will help customers see the products that are for sale. Pictures of the lot and the proposed outdoor parking were submitted for discussion. Mrs. Sawaska stated that the outdoor display of trailers increases the amount of notice for the business which can improve the success rate of the business. Mrs. Sawaska stated concerns about signage for the business. The Town Attorney reviewed the sign ordinance concerning this location.

Remonstrators: None

Building Department's Comments: Tim Kuiper read verbatim from a letter dated April 19, 2011 by Ian Nicolini concerning Item #4 on the agenda: "Based upon the submittals,

## Board of Zoning Appeals Minutes

April 21, 2011

Page 5

I am unable to ascertain the location(s) of the proposed outdoor storage areas. Therefore, I am unable to make a recommendation. However, I suggest proposing limits on the volume of outdoor storage items.”

Board's Discussion: Tim Kubiak questioned the amount of trailers on the site at any given time. Mrs. Sawaska requested that two (2) be placed in the front of the building and one (1) along the side and that when a trailer is sold that it be stored in the rear storage area of the lot so that a new trailer for sale can be displayed. Tim Kuiper suggested that a review of the parking requirements be completed to be certain that the required parking for the business is retained. Jeff Bunge stated concerns about parking in the grassy area along Wicker Avenue. The Petitioner agreed to not park in the grassy areas. Jeremy Kuiper stated that the amount of outdoor storage will need to be limited.

Board's Decision: Tim Kubiak moved to approve the Variance of Use to allow outdoor storage of no more than three (3) standard sized horse trailers to be placed with no more than two (2) in front of the building and one (1) along the side of the building for display on hard surface, contingent upon no infringement upon required retail parking spaces, as discussed, 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.

Eric Burnham seconded. After a roll call vote, the motion carried by a vote of 5 to 0.

**Correspondence:** None.

**Public Comment:**

**Adjournment:** 7:40 p.m. Jeremy Kuiper adjourned the meeting.

**Press Session:** None

---

James Hunley

---

Tim Kubiak

---

Eric Burnham

---

Jeff Bunge, Vice Chairman

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

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