

**Town of Cedar Lake-Board of Zoning Appeals
Public Meeting Minutes
June 16, 2011**

The Cedar Lake Board of Zoning Appeals held their Public Meeting on Thursday, June 16, 2011. The meeting was called to order at approximately 7:00 p.m. at the Cedar Lake Town Hall. Those Members present were: Eric Burnham, Tim Kubiak, Diane Cusack, Jeff Bunge, Vice-Chairman, and Jeremy Kuiper, Chairman. Also present were Tim Kuiper, Attorney from Austgen, Kuiper & Associates; Ian Nicolini, Town Administrator; and Laurie Wyrick, Recording Secretary.

Minutes: Eric Burnham moved to approve the Minutes from the May 19, 2011 Public Meeting. Jeff Bunge seconded. After a voice vote, the motion carried unanimously.

Public Hearings:

New Business:

1. DJ Cedar Lake – Variance of Use

Owner: DJ Cedar Lake, LLC., 1000 E. 80th Avenue, Suite 700N, Merrillville, Indiana
Town of Cedar Lake, P.O. Box 707, Cedar Lake, Indiana

Petitioner: DJ Cedar Lake, LLC., 1000 E. 80th Avenue, Suite 700N, Merrillville, Indiana

Vicinity: 7501 Constitution Avenue
7504 W. 138th Avenue

Request: A Variance of Use from 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 outdoor dining, alcohol sales and consumption, live entertainment and dancing in a Neighborhood Business (B-1) Zoning District.

Town Attorney Comments: Tim Kuiper stated that the notifications and publications are in order for tonight's public hearing. Tim Kuiper stated that the Plan Commission approved the Site Plan, Preliminary Subdivision Plat and granted a Favorable Recommendation to rezone the property to Neighborhood Business (B-1) Zoning District. The request before the Board of Zoning Appeals is an extension of previous approvals for the Lighthouse property to allow outdoor festivities.

Petitioner's Response: Les Dewes was representing DJ Cedar Lake at tonight's meeting. Mr. Dewes stated that the variance is similar to previous variances to allow outdoor dining and entertainment with alcohol.

Remonstrators: None

Building Department's Comments: Ian Nicolini stated that land swap agreement deeds 7504 W. 138th Avenue to the Town in exchange for the current Outlot “A” that had been improved and deeded to the Town. The new parcel will be improved for the Town and the Outlot “A” will be improved as part of the restaurant.

Board's Discussion: Jeff Bunge stated concerns about alcohol on Town property. Ian Nicolini responded that public property is not permitted to have alcohol by right. Les Dewes responded that delineations will be made according to Indiana Statute to prevent alcohol from leaving the restaurant property.

Board's Recommendation to Town Council: Tim Kubiak moved to send a Favorable Recommendation to the Town Council to allow live entertainment and dancing, alcohol sales and consumption and outdoor dining in a Neighborhood Business (B-1) Zoning District as presented, contingent upon the rezone of the property, 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.

Diane Cusack seconded. After a roll call vote, the motion carried by a vote of 5-0.

2. a. St. Michael the Archangel Polish National Catholic Church – Variance of Use

Owner/Petitioner: St. Michael the Archangel Polish National Catholic Church, 10717 W. 134th Place, Cedar Lake, Indiana

Vicinity: 6629 W. 133rd Avenue

Request: Petitioner is requesting a Variance of Use from Zoning Ordinance No. 496, Title XXII, Sign Regulations. Section 1: Prohibited Signs: A. "The Following signs are prohibited in all Zoning Districts: ... 9. Signs which display any flashing or intermittent lights, or lights changing intensity or color, except signs indicating time or weather conditions;"

This Variance of Use request is to allow an illuminated digital message sign.

Town Attorney to Review Legals: Tim Kuiper stated that the notifications and publications are in order for tonight's public hearing. Tim Kuiper recommended that Items #2.a. and 2.b. be combined for presentation and public hearing purposes.

Petitioner's Response: Father John P. Kowalczyk, Jr. stated that the increase in sign size is to allow the building sign to be legible from the road which is approximately three hundred (300) feet away. The letters will be approximately sixteen (16) inches in height and the church has a long name. The road sign will be further than ten (10) feet from the road to avoid power lines and to comply with the ordinance. The top half of the road sign will name the church and the lower portion will announce events. Father John stated that the sign will be full color or two-color depending upon fund raising for the signage. The parsonage is concentrating on installation of the building sign before the road sign.

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Remonstrators: Richard LaVan, 14301 Lauerman, **For**, to support the church.

Building Department's Comments: Ian Nicolini stated that the lighting cannot mimic emergency vehicles with red and blue flashing and the digital imaging will require a minimum amount of time per message to be displayed to reduce distractions to drivers.

Board's Discussion: Tim Kubiak stated concerns about the size requested for the digital sign. Father Kowalczyk agreed to research the sign sizes for the digital sign. Jeremy Kuiper questioned the building sign lighting. Father Kowalczyk stated that a ground light would be "spotlighting" the building sign. Diane Cusack requested that the base area of the road sign be landscaped. The Petitioner agreed. Jeff Bunge stated that the request is exceeding the sign ordinance requirements and asked that the Petitioner reduce the size. The Petitioner responded about the height of the letters due to the distance from the street.

Board's Decision: Tim Kubiak moved to defer to the August meeting schedule. Jeff Bunge seconded. After a voice vote, the motion carried unanimously.

2. b. St. Michael the Archangel Polish National Catholic Church – Developmental Variance

Owner/Petitioner: St. Michael the Archangel Polish National Catholic Church, 10717 W. 134th Place, Cedar Lake, Indiana 46303

Vicinity: 6629 W. 133rd Avenue, Cedar Lake, Indiana 46303

Request: Petitioner is requesting a Variance from Zoning Ordinance No. 496, Title XXII, Sign Regulations. Section 3: Signs in Business or Industrial Districts. A. 1. "No more than two on-premise signs shall be allowed on a zoning lot." c. "The maximum sign sizes shall not exceed: ii. In the case of two (2) such on-premise signs, one (1) sign shall be no more than sixty (60) square feet in size and one (1) sign shall be no more than thirty-two (32) square feet in size."

This variance request is to exceed the maximum signage allowed by Ordinance.

Attorney to Review Legals: See Item #2.a.

Petitioner's Response: See Item #2.a.

Remonstrators: See Item #2.a.

Building Department's Comments: See Item #2.a.

Board's Discussion: See Item #2.a.

Board's Decision: Diane Cusack moved to approve the increase in sign square footage as requested, 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

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- 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. Latitude 41 – Variance of Use

Owner: US41 Properties LLC, 13019 Wicker Avenue, Cedar Lake, Indiana

Petitioner: Latitude 41 Inc., 13019 Wicker Avenue, Cedar Lake, Indiana

Vicinity: 13019 Wicker Avenue

Request: A Variance from Zoning Ordinance 496, Title XIII – Community Business (B-2) Zoning Districts. Section 2: Use Regulations: “The following shall apply to the Community Business (B-2) Zoning District, as permitted uses:” ...”52) Restaurants, taverns or other places serving food or beverage, when no entertainment or dancing is provided;”

Petitioner is requesting a Variance of Use to allow out of doors live entertainment, alcohol sales and consumption, dining and dancing, with a fire pit in a Community Business (B-2) Zoning District.

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

Petitioner’s Response: Paul Banter was representing Latitude 41 at tonight’s meeting. Mr. Banter stated that the restaurant is planning to have an outside area with live entertainment, serene landscaping, fire pit and alcohol, for a relaxed dining experience to the west part of the business. Outside of the business adjacent to Wicker Avenue, plans to have outdoor dining were submitted. No alcohol or entertainment would be in this portion. The dining areas will be fenced.

Remonstrators: None

Building Department’s Comments: Ian Nicolini requested that the business’ liquor licensing with the State of Indiana include the request before the Town. Ian Nicolini stated concerns about the width of the walkway for ADA purposes. Mr. Banter responded that the walkway would comply with ADA requirements and that the liquor license complies with State requirements for alcohol.

Board’s Discussion: Diane Cusack inquired as to the type of fire pit. Mr. Banter responded that the fire pit will be gas fueled. Tim Kubiak stated concerns about roofing or trellis over the area and curbing for the dining areas. Tim Kubiak stated that the ADA parking will need to remain compliant. Mr. Banter responded that the area would be a trellis with waterproof cloth over it for screening and the curbs would be raised and that ADA parking space would be compliant. Jeremy Kuiper questioned the number of tables for the front (adjacent to Wicker Avenue) dining area and safety fencing. Mr. Banter stated that fencing will be installed and a couple of barriers for the front dining area.

Board’s Recommendation to Town Council: Tim Kubiak moved to send a Favorable Recommendation to the Town Council to allow outdoor dining, live entertainment, alcohol sales and consumption, and dancing, with a fire pit in a Community Business (B-2) Zoning District, contingent upon compliance with the current noise ordinance for

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the Town, as amended from time to time, and that the front dining area allow outdoor dining only and not alcohol sales or consumption, nor live entertainment, nor dancing and that a minimum of two (2) barriers in the front dining area be constructed, 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.

4. a. Homescapes – Developmental Variance

Owner: Gregory & Dawn Wornhoff, 10708 W. 133rd Lane, Cedar Lake, Indiana
Petitioner: Homescapes Garden Center & Landscape Supply LLC, 10711 W. 133rd Avenue, Cedar Lake, Indiana
Vicinity: 10711 W. 133rd Avenue
Request: A Variance from Zoning Ordinance 496, Title XIII – Community Business (B-2) Zoning Districts. Section 5: Area, Width and Yard Regulations: B. Front Yard “Each lot shall front on a dedicated and improved street. There shall be a front yard between the building line and the highway line and the highway or street right-of-way lines as follows: ...3) All streets designed as part of the Federal Aid Urban System, as delineated by the State Highway Commission, a distance of fifty (50) feet.” **And** C. Side Yard: “On a lot abutting any Residential Zoning District, or more restrictive Zoning District, there shall be a side yard abutting such district having a width of not less than twenty-five (25) feet, which shall be effectively screened from abutting lots by a strip of planting not less than eight (8) feet in ultimate width...” **And** D. Rear Yard: “There shall be a rear yard on each lot, the depth of which shall not be less than thirty (30) feet from the rear lot line”

Petitioner is requesting a Developmental Variance to allow a front yard setback of forty (40) feet. A side yard setback of zero (0) feet for the east property line and twelve (12) feet for the west property line. A rear yard setback of zero (0) feet. The lot will not comply with screening and planting requirements.

Attorney to Review Legals: Tim Kuiper stated that the notifications and publications are in order for tonight’s public hearing. Tim Kuiper recommended that Items #4.a. and 4.b. be combined for presentation and public hearing purposes

Petitioner’s Response: Greg Wornhoff was representing Homescapes Garden Center & Landscape Supply LLC at tonight’s meeting. Mr. Wornhoff stated that the site is planned

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for a garden center and landscape supply business and that the lot adjacent to 133rd Avenue is zoned Community Business (B-2) Zoning District and the property to the rear that is zoned Neighborhood Business (B-1) Zoning District is not a part of the business' property and will only be utilized as storage. Mr. Wornhoff stated that if the 133rd Avenue road widening does become constructed that the building would be approximately forty to forty-five (40-45) feet setback from the road. The bulk bins have been relocated to the Community Business (B-2) Zoned lot.

Remonstrators: None

Building Department's Comments: Ian Nicolini stated that the setbacks are based upon a sketched plan and recommended that any approvals be contingent upon site plan approval by the Plan Commission.

Board's Discussion: Jeff Bunge stated concerns about the Neighborhood Business (B-1) Zoning District as part of the property before the Board of Zoning Appeals and that the property would not be paved. Jeff Bunge stated concerns about the grassy area to the east of the property that is not to be included as part of the business. Mr. Wornhoff responded that the Neighborhood Business property is not included as a part of the business and the property will be completed in gravel to assist with drainage and hesitance to pave the parking area until the road project has been completed to not have to repair new pavement due to construction and that the grassy area will not be utilized by the business except maybe some storage of bag materials. Tim Kubiak requested that the area adjacent to 133rd Avenue be paved to prevent the amount of gravel that is deposited onto 133rd Avenue. Jeremy Kuiper stated concerns about the traffic flow of the site. Mr. Wornhoff responded that the Plan Commission mentioned the site's traffic pattern.

Board's Decision: Tim Kubiak moved to approve the setback requirements as requested and that the planting/screening and gravel substrate will be acted upon by the Plan Commission as part of the Site Plan Approval, 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.

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

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4. b. Homescapes – Variance of Use

Owner: Gregory & Dawn Wornhoff, 10708 W. 133rd Lane, Cedar Lake, Indiana
Petitioner: Homescapes Garden Center & Landscape Supply LLC, 10711 W. 133rd Avenue, Cedar Lake, Indiana
Vicinity: 10711 W. 133rd Avenue
Request: A Variance from Zoning Ordinance 496, Title XIII – Community Business (B-2) Zoning Districts. Section 2: Use Regulations: B. “The following uses provided that they are within one (1) foot of a more restrictive Zoning District they shall be conducted wholly within the building or within an area screened on all sides by a masonry wall, compact evergreen planting or uniformly painted ornamental wood fences not less than six (6) feet in height shall be maintained between such use and an adjoining Residential Zoning District except for off-street loading and delivery vehicles which are incidental thereto as required in TITLE XXVII. 1) “Greenhouses, Nursery, Floor or Plant provided all incidental equipment is kept wholly within a building.”

Petitioner is requesting a Variance of Use to allow an open lot display and storage of landscaping materials in a Community Business (B-2) Zoning District.

Town Attorney Comments: See Item #4.a.

Petitioner’s Response: See Item #4.a.

Remonstrators: See Item #4.a.

Building Department’s Comments: See Item #4.a.

Board’s Discussion: See Item #4.a.

Board’s Recommendation to Town Council: Tim Kubiak moved to send a Favorable Recommendation to the Town Council to allow an open lot display and storage of landscaping materials in a Community Business (B-2) Zoning District, contingent upon Site Plan Approval from the Plan Commission, and the storage of materials to be located behind the front of the primary building, 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.

Diane Cusack seconded. After a roll call vote, the motion carried by a vote of 5-0.

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5. Wornhoff – Variance of Use

Owner: Bernard Wornhoff, 11113 W. 133rd Avenue, Cedar Lake, Indiana
Petitioner: Gregory & Dawn Wornhoff, 10708 W. 133rd Lane, Cedar Lake, Indiana
Vicinity: 11113 W. 133rd Avenue
Request: A Variance from Zoning Ordinance 496, Title XIII – Community Business (B-2) Zoning Districts. Section 1: Intended Purposes: “The Community Business (B-2) Zoning District is designed to provide for the needs of a larger consumer populations 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.”

Petitioner is requesting a Variance of Use to construct a Two-Family dwelling in a Community Business (B-2) 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: Greg Wornhoff stated that the owner is planning to construct a two-family home on the lot. The lot is a larger L-shaped lot and the lower portion is adjacent to two-family properties.

Remonstrators:

1. Sandy Brownfield, W. 133rd Lane, neither, stated drainage concerns on the site. Jeremy Kuiper recommended that Ms. Brownfield attend the Stormwater Board meeting on Tuesday, June 28th at 7:00 p.m. in the Town Hall.
2. Ralph & Lois Schillo, W. 133rd Lane, letter dated June 5, 2011, stating concerns about construction on the site, when drainage is a concern. The letter was accompanied by pictures depicting water on the site.

Building Department’s Comments: Ian Nicolini stated that the use of the property is being addressed as a Variance of Use before the Board of Zoning Appeals, instead of rezoning the property to eliminate spot zoning and maintain the business zoning of 133rd Avenue.

Board’s Discussion: Eric Burnham questioned the plans for the rear of the lot. Mr. Wornhoff stated that the rear lot may be planted as a garden in the future. Jeff Bunge stated that the property had received a variance in the past to construct a home on the lot. Mr. Wornhoff responded that the variance was for a single-family home and it was several years ago that the variance was approved. Diane Cusack questioned access to the rear of the lot in the event that the front of the lot has improvements. Mr. Wornhoff showed the members the access along the property line for the southern portion. Time Kubiak stated concerns about the front yard setback. Mr. Wornhoff stated that the front yard setback would remain fifty (50) feet.

Board’s Recommendation to Town Council: Diane Cusack moved to send a Favorable Recommendation to the Town to allow a two-family dwelling in a Community Business (B-2) Zoning District contingent that the pair-villa be located on the northern portion of the lot as presented to the Board of Zoning Appeals to include the Findings of Fact:

- The approval will not be injurious to the public health, safety, morals and general welfare of the community;

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- 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 5 to 0.

6. Bourrell – Variance of Use

Owner/Petitioner: Scott Bourrell, 12644 Wicker Avenue, Cedar Lake, Indiana

Vicinity: 12644 Wicker Avenue

Request: A Variance of Use from 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.”

This Variance of Use request is to allow an accessory structure for vehicles and trailers on a lot previously approved as a gravel turn around area.

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

Petitioner’s Response: Scott Bourrell stated that the accessory structure will be located on the rear lot to house a semi-trailer.

Remonstrators: Eddie Paul, W. 127th Place, against, Mr. Paul requested that the accessory structure not be located by the residential property and that the privacy slats have not been installed in the chain link fence adjacent to Mr. Paul’s property.

Building Department’s Comments: Ian Nicolini stated that according to the previous approvals for the property the rear lot was approved as a turn around area, not as parking or for accessory structures.

Board’s Discussion: Tim Kubiak requested clarification of the structure the Petitioner is planning to construct and how many other structures are planned for the lot. Mr. Bourrell stated that the structure will have a door and sides and this is the only structure planned for the site. Jeremy Kuiper requested clarification of the base. Mr. Bourrell stated that the base will be gravel. Jeff Bunge stated concerns about the unimproved right-of-way. Ian Nicolini explained that the right-of-way has been vacated.

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Board's Recommendation to Town Council: Tim Kubiak moved to send a Favorable Recommendation to the Town Council to allow an accessory structure for a semi trailer on a lot previously approved as a gravel turn around area, contingent that the privacy slats be installed in the portion(s) of the fence adjoining to residential property, 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.

7. Collins – Developmental Variance

Owner/Petitioner: William F. Collins, 14750 Dewey Street, Cedar Lake, Indiana

Vicinity: 14750 Dewey Street

Request: Petitioner is requesting a Variance from Zoning Ordinance 496, Title XXIII – Accessory Regulations. Section 1: General Accessory Regulations: A. 4. "No accessory buildings shall be allowed in the front yard of any residential lot." **and** "on lots 10,000 to 15,000 square feet in size, the maximum square footage allowed for accessory structures is eight hundred (800) square feet in size with a height of fourteen (14) feet at the peak."

The Variance request is to allow an accessory structure one thousand forty (1,040) square feet in size with a height of sixteen (16) feet at the peak in the front yard of the lot.

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

Petitioner's Response: William Collins requested permission to construct an accessory structure that is 26x40 feet, approximately thirty (30) feet from the road. Mr. Collins home is more than fifty (50) feet from the street. The finish of the accessory structure would be consistent with the homes in the neighborhood.

Remonstrators: None

Building Department's Comments: Ian Nicolini recommended approval for the developmental variance as requested.

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Board's Discussion: Jeremy Kuiper requested the location of the driveway. Mr. Collins stated plans to use the existing driveway. Eric Burnham stated concerns about the height requirement. Tim Kubiak stated that the sixteen (16) foot height is correct for the size of the structure requested.

Board's Decision: Tim Kubiak moved to approve the Developmental Variance as requested, 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.

8. Westerberg – Developmental Variance

Owner/Petitioner: Paul Westerberg, 13701 Lauerman #84, Cedar Lake, Indiana

Vicinity: 13701 Lauerman #84

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 request is to allow a front yard setback of twenty (20) feet.

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

Petitioner's Response: Paul Westerberg requested to build a deck on the front of his home.

Remonstrators: None

Building Department's Comments: Ian Nicolini stated that the lot is remotely located within the Conference Grounds and recommends approval.

Board's Discussion: Eric Burnham requested Bible Conference Grounds approvals. Mr. Westerberg stated that the approval was granted. Ian Nicolini stated that the Town does not keep the subdivision approvals on file as they are required by the Town.

Board's Decision: Tim Kubiak moved to approve the developmental variance 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;

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- 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.

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

9. Richard LaVan – Developmental Variance

Owner/Petitioner: Richard LaVan, 14301 Lauerman Street, Cedar Lake, Indiana

Vicinity: 14301 Lauerman Street

Request: Petitioner is requesting a Variance from Zoning Ordinance 496, Title XXIII – Accessory Regulations. Section 1: General Accessory Regulations: A. 2. “Only one (1) accessory building in excess of two hundred (200) square feet shall be permitted per building lot...” **and** “on lots 1.01 to 2.00 acres in size, the maximum square footage allowed for accessory structures is one thousand two hundred (1,200) square feet and a height of fourteen (14) feet.” **And** “4) No accessory buildings shall be allowed in the front yard of any residential lot.”

The Variance request is to allow two accessory structures on the lot that exceed two hundred (200) square feet in size, the original accessory structure is seven hundred and sixty-five (765) square feet in size; the proposed detached accessory structure is approximately one thousand seven hundred twenty-eight (1,728) square feet in size with a height of approximately seventeen (17) feet at the peak that will be located in the front yard of the lot, this is a lakefront lot.

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

Petitioner’s Response: Richard LaVan stated plans to construct an accessory structure for woodworking, storage of recreational vehicles and some cars as Mr. LaVan collects cars. The exterior of the accessory structure will match the primary structure and landscaped. Mr. LaVan requested that the structure be turned to face the way not shown on the original submittal.

Remonstrators: None

Building Department’s Comments: Ian Nicolini stated concerns about the lack of gravel, paving or concrete access to the accessory structure.

Board’s Discussion: Jeremy Kuiper stated concerns about access to the structure and utilities. Mr. LaVan responded that the access would be through the grass on the lot, from Lauerman Street and that electricity would be the only utility to the structure. Diane Cusack stated concerns about the old growth trees on the lot. Mr. LaVan responded that the location for the accessory structure has been chosen to reduce the amount of negative impact to the trees on the lot. Tim Kubiak questioned the structures construction and which way the doors would face. Mr. LaVan responded that the structure would be pole barn constructed with an exterior that matches the home. The exterior will have the same roofing materials and siding; however, the brick/stone work along the bottom will be omitted due to cost. The doors will be facing Lauerman Street and the primary structure. Tim Kubiak stated concerns about the size of the garage

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and that the roofing material needs to match the primary structure. Mr. LaVan responded that the sidewalls will not exceed ten (10) feet.

Board's Decision: Tim Kubiak moved to allow two (2) accessory structures on the lot that exceed two hundred (200) square feet in size, the original accessory structure is seven hundred and sixty-five (765) square feet in size; the proposed detached accessory structure is approximately one thousand seven hundred twenty-eight (1,728) square feet in size with a height of approximately seventeen (17) feet at the peak and will be located in the front yard of the lot, contingent upon the finish of the accessory structure materials for shingles, doors and siding match the primary structure and no direct access from Lauerman Street, 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.

Diane Cusack seconded. After a roll call vote, the motion carried by a vote of 3 to 2, with Jeff Bunge and Jeremy Kuiper voting against.

10. Jenkins – Variance of Use

Owner: First Baptist Church, 13419 Parrish Avenue, Cedar Lake, Indiana
Petitioner: Wesley N. Jenkins Jr., P.O. 419, Cedar Lake, Indiana
Vicinity: 13419 Parrish Avenue
Request: Petitioner is requesting a Variance of Use from Zoning Ordinance No. 496, Title XXII, Sign Regulations. Section 1: Prohibited Signs: A. "The following signs are prohibited in all Zoning Districts: ... 9. Signs which display any flashing or intermittent lights, or lights changing intensity or color, except signs indicating time or weather conditions;"

This Variance of Use request is to allow an illuminated digital message sign.

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

Petitioner's Response: Wesley Jenkins Jr. was present at tonight's meeting. Mr. Jenkins stated that the church is planning to replace the existing sign with a digital sign that will fit in the same stand. The sign will be multi-colored digital.

Remonstrators: None

Building Department's Comments: Ian Nicolini stated that the minimum time per message and no flashing of lights mimicking emergency vehicles need to be contingencies for any approvals.

Board's Discussion: Tim Kubiak reiterated the importance of digital signage not distracting drivers.

Board's Recommendation to Town Council: Eric Burnham moved to send a Favorable Recommendation to the Town Council to allow an illuminated digital message sign,

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contingent upon a minimum of six (6) seconds per message, and that the sign does not flash red and blue mimicking emergency vehicles, 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 5 to 0.

11. Schmal – Developmental Variance

Owner: Jeffrey & Shannon Schmal, 10811 W. 133rd Avenue, Cedar Lake, Indiana

Petitioner: Eric Goetz Master Builder, Inc., 17609 State Line Road, Lowell, Indiana

Vicinity: 10811 W. 133rd Avenue

Request: Petitioner is requesting a Variance from Zoning Ordinance 496, Title XXIII – Accessory Regulations. Section 1: General Accessory Regulations: A. 2. “Only one (1) accessory building in excess of two hundred (200) square feet shall be permitted per building lot upon issuance of a duly authorized building permit by the Building Department or duly designated representative of the Town.” on lots over 15,000 square feet in size to 1.00 acre, the maximum square footage allowed for accessory structures is one thousand (1,000) square feet and a height of fourteen (14) feet.

There will be four (4) accessory structures on the site, the proposed structure will replace two existing structures, this proposed structure will be one thousand two hundred (1,200) square feet in size approximately sixteen (16) feet in height; the remaining accessory structures are two hundred and twelve (212) square feet in size and five hundred and eighty-six (586) square feet in size and three hundred and sixty-six (366) square feet in size.

Town Attorney Comments: Tim Kuiper stated that the notifications and publications are in order for tonight's public hearing. The south accessory structure belongs to the neighbors and recordation is in process at Lake County – this accessory structure is ignored in the discussion; however, it is a part of the motion.

Petitioner's Response: Brian Laffoon was representing Eric Goetz Master Builder at tonight's meeting. Mr. Laffoon stated plans to demolish two (2) existing accessory structures that are close together and make one (1) larger structure. The combined size of the two (2) existing is approximately seven hundred and fifty (750) square feet. The southern structure houses the log splitter and boat, the outbuilding is more of a playhouse than accessory structure and the proposed will be the garage for the home. The proposed structure will match the existing east building line of the two (2) existing structures.

Remonstrators: None

Building Department's Comments: None

Board's Discussion: None

Board's Decision: Jeff Bunge moved to approve the Developmental Variance 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.

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

Correspondence: None.

Public Comment:

Adjournment: 7:55 p.m. Jeremy Kuiper adjourned the meeting.

Press Session: None

James Hunley

Tim Kubiak

Eric Burnham

Jeff Bunge, Vice Chairman

Jeremy Kuiper, Chairman

Attest: _____
Jenn Montgomery, Recording Secretary