

**Town of Cedar Lake-Board of Zoning Appeals  
Public Meeting Minutes  
August 18, 2011**

The Cedar Lake Board of Zoning Appeals held their Public Meeting on Thursday, August 18, 2011. The meeting was called to order at approximately 7:02 p.m. at the Cedar Lake Town Hall. Those Members present were: Tim Kubiak, Diane Cusack, Eric Burnham, and Jeff Bunge, Vice-Chairman. Attorney Tim Kuiper, of Austgen, Kuiper & Associates, Ian Nicolini, Town Administrator, and Jenn Montgomery, Recording Secretary, were also present. Jeremy Kuiper, Chairman, was not present at tonight's meeting.

**Minutes:** Eric Burnham moved to approve the Minutes from the July 21, 2011 Public Meeting. Diane Cusack seconded. After a voice vote, the motion carried unanimously.

**Chairman's Comments:** None.

**Public Hearings:**

**Old Business:**

**1. St. Michael the Archangel Polish National Catholic Church – Variance of Use**

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

Vicinity: 6629 W. 133<sup>rd</sup> 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.*

**Deferred to September 15, 2011 Public Meeting.**

**New Business:**

**1. Luke Land, LLC – Variance of Use**

Owner: Doris M. Dunn, 12260 Rolling Hills Road, Monmouth, Oregon 97361

Petitioner: Luke Land, LLC, 3592 North Hobart Road, Hobart, Indiana

Vicinity: 6905 W. 133<sup>rd</sup> Avenue, Cedar Lake, Indiana 46303

Request: 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 establishments dealing directly with customers. All goods produced on the premises shall be sold at retail on this premises where produced."  
Title XXIV – General Business (B-3) Zoning District. Section 2: Use Regulations: A. The Following shall apply to the General Business (B-3) Zoning District as permitted uses: ...5) Automobile service stations."

*Petitioner is requesting to operate a B-3 zoned service station in a B-1 Zoning District.*

**Attorney to Review Legals:** Tim Kuiper stated the notices and publications are in order for tonight's hearing. Attorney Kuiper stated that Luke Land was approved at the Plan Commission on August 17, 2011 contingent upon all other applications being approved.

**Petitioner's Response:** Mike Zell of Luke Land, LLC was present at tonight's meeting to request a variance to operate a service station in a B-1 Zoning District.

Remonstrators: None.

Building Department's Comments: None.

Board's Discussion: Jeff Bunge asked if a drainage plan has been presented. Tim Kubiak stated that a drainage plan is being worked on for all four (4) lots and that approval for the subdivision is contingent upon final engineering approval by the Town Engineers. Drainage will flow to the East of the development.

Board's Recommendation to Town Council: Tim Kubiak moved to send a favorable recommendation to the Town Council. Diane Cusack seconded. After a roll call vote, the motion carried 4-0.

## **2. Pawlik – Developmental Variance**

Owner/Petitioner: Jeffrey and Sharon Pawlik, 14719 Reeder Court, Crown Point, Indiana

Vicinity: 14719 Reeder Court, Crown Point, Indiana

Legal Description: Valley Acres Lot 1

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.

*This variance request is to allow an accessory structure that is 720 square feet.*

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

Petitioner's Response: Jeffrey and Sharon Pawlik were present at tonight's meeting to request a detached garage

Remonstrators: Frank Bauer, 14825 Reeder Court; **For.**

Building Department's Comments: None.

Board's Discussion: Tim Kubiak inquired what the roof pitch will be. The Petitioner responded that the roof will have a 6/12 pitch. Tim Kubiak also stated that 2x8 rafters will have to be used for a twenty-four (24) foot building.

Board's Decision: Tim Kubiak moved to grant the developmental variance as requested, and to allow a height of sixteen (16) feet in order to match the roof pitch of the residential structure, 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.

Diane Cusack seconded. After a roll call vote, the motion carried 4-0.

### 3. Noel – Developmental Variance

Owner/Petitioner: Dennis Noel, 14311 Parrish Avenue, Cedar Lake, Indiana

Vicinity: 14311 Parrish Avenue, Cedar Lake, Indiana

Legal Description: PT. N2 NW 243.15 X 179.15FT. EX. S. 20 FT. S.34 T.34 R.9 .888 AC.

Request: Petitioner is requesting a variance from Zoning Ordinance 496, Title XX – Residential (R-2) Zoning District. Section 5: Building Size: B. “Attached garages on all new home permits shall have minimum four hundred (400) square feet. Maximum attached garage size shall be eight hundred sixty-four (864) square feet.

*This variance request is to allow an attached garage with a building size larger than 864 square feet. The proposed garage size shall be 900 square feet, with a total attached garage size of 1,485 square feet.*

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

Petitioner’s Response: Dennis Noel was present at tonight’s meeting to request this variance. Mr. Noel stated he would like to add to his existing garage and that he has simply run out of room in the existing garage.

Remonstrators: None.

Building Department’s Comments: None.

Board’s Discussion: Diane Cusack confirmed that the addition will be no taller than the existing structure.

Board’s Decision: Tim Kubiak moved to grant the developmental variance as requested, and that the addition shall be counted as one of two (1 of 2) allowed accessory structures under the new Zoning Ordinance amendment, 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 4-0.

### 4. Ponziano – Developmental Variance

Owner: Heather Ponziano, 14727 Reeder Court, Crown Point, Indiana

Petitioner: Joseph Ponziano, 14727 Reeder Court, Crown Point, Indiana

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Vicinity: 14727 Reeder Court, Crown Point, Indiana  
Legal Description: Valley Acres Lot 3  
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.” **And** A.2)a. ... “Additional square footage in such building shall be permitted only in conformance with the following schedule. ... Exterior wall height shall not exceed ten (10) feet from finish floor surface.” On a lot size of 1.01 to 2.00 acres, the maximum height of said accessory structure may not exceed fourteen (14) feet. **And** 4) No accessory building shall be allowed in the front yard of any residential lot.

*Petitioner is requesting a variance be granted to allow an accessory structure larger than 200 square feet. The proposed garage will be 1,944 square feet. Petitioner is requesting a variance to allow an exterior wall height of 13.5 feet to exceed the ten (10) foot allowance. Petitioner is requesting a variance to allow a structure height of approximately 19.5 feet to exceed the fourteen (14) foot allowance. Petitioner is requesting a variance to allow an accessory building in a front yard of a through lot.*

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

Petitioner’s Response: Joseph and Heather Ponziano were present at tonight’s meeting to request a variance to allow an accessory structure. Mr. Ponziano stated he has outgrown his current storage situation. Mr. Ponziano stated he would like to have a secure place to store his recreational vehicles, car, motor home, tools, etc. Mr. Ponziano stated he has no intention of running any kind of business out of the requested building. Mr. Ponziano stated that the peak height of the home, from sea level, is 741 feet and that the peak height of the proposed building from sea level is 735 feet and will not be seen from the road. The reason for the extra height is to be able to park his motor home inside the structure.

Remonstrators: A remonstrance packet was submitted to the Board of Zoning Appeals containing a petition **against** this variance. Remonstrators included:

Alan and Deborah Schau, 14811 Reeder Road  
Beverly Mahns, 14711 Reeder Road  
John and Carolyn Conley, 14818 Reeder Court  
John and Maureen Margis, 14812 Reeder Court  
Richard and Shirley St. Germain, 14723 Reeder Court  
Eleanor Kahl, 14825 Reeder Road  
Ishmahl and Mary Jo Ison, 14807 Reeder Road  
Lenny and Rebecca Cribari, 14719 Colfax  
Jeff and Sharon Pawlik, 14719 Reeder Court  
Luis and Andrea Cervantes, 14829 Reeder Road  
Frank and Carol Bauer, 14825 Reeder Court  
Jack and Theresa Yauger, 14722 & 14808 Reeder Court

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Remonstrators present at tonight's meeting are as follows:

John Stavitzke, 14819 Reeder Court; **For**

Dan Enright, 14815 Reeder Road; **For**

Shirley St. Germain, 14723 Reeder Court; **Against**

John and Carolyn Conley, 14818 Reeder Court; **Against**

Frank and Carol Bauer, 14825 Reeder Court; **Against**

Jack Yaeger, 14722 Reeder Court; **Against**

Building Department's Comments: None.

Board's Discussion: Eric Burnham asked what is behind the property. It was explained that the rear yard is considered a front yard because there is an unimproved road that runs along the property. Tim Kubiak stated concerns regarding the sidewalk height. Mr. Kubiak stated that the sidewalk height borders on residential and commercial uses, and could lead to other problems should the property be sold, the new owners could possibly try to run a business out of the structure. A letter was received from the Town Engineer recommending that a swale and underdrain be installed around the building. Discussion occurred regarding what the limitations are in the proposed amendment that will be voted on by the Town Council. After discussion, Eric Burnham stated he would prefer to see the proposed building remain within the allowed building size, which would be sixteen hundred (1,600) square feet should the new ordinance be passed. Tim Kubiak again stated concerns about the sidewalk height and the size of the proposed doors. It was confirmed that the building will still be lower than the existing residence. Jeff Bunge stated that he is uncomfortable with allowing an oversized accessory structure.

Board's Decision: Tim Kubiak moved to grant the variance as requested with a ten (10) foot sidewalk. Diane Cusack seconded. After a roll call vote, the motion did not carry by a vote of 2-2, with Eric Burnham and Jeff Bunge against. Tim Kubiak moved to grant the variance as requested, with a ten (10) foot sidewalk, and a height of seventeen feet, six inches (17'6"), 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 3-1, with Jeff Bunge voting against.

### 5. a. Schutte – Variance of Use

Owner: Pat A. Schutte, 6817 W 131<sup>st</sup> Place, Cedar Lake, Indiana 46303

Petitioner: Robert C. Schutte, 7817 W 127<sup>th</sup> Avenue, Cedar Lake, Indiana 46303

Vicinity: 7704 Lake Shore Drive, Cedar Lake, Indiana 46303

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

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

Petitioner's Response: Robert Schutte was present at tonight's meeting. Mr. Schutte stated that he is requesting permission to allow outdoor dining and entertainment at his restaurant, Pizza Palace. Mr. Schutte explained the layout of dining, parking, and type of entertainment.

Remonstrators: None.

Building Department's Comments: Tim Kubiak and the Board explained the need for adequate parking, dining, and facilities and the changes that would need to be made in order for the variance to be granted.

Petitioner's Decision: After discussion with the Board of Zoning Appeals, Robert Schutte decided to withdraw his variance request at this time.

### 5. b. Schutte – Developmental Variance

Owner: Pat A. Schutte, 6817 W 131<sup>st</sup> Place, Cedar Lake, Indiana 46303

Petitioner: Robert C. Schutte, 7817 W 127<sup>th</sup> Avenue, Cedar Lake, Indiana 46303

Vicinity: 7704 Lake Shore Drive, Cedar Lake, Indiana 46303

Request: Petitioner is requesting a Developmental Variance to allow parking within the allotted fifty (50) feet front yard setback.

Attorney to Review Legals: See Item 5a.

Petitioner's Response: See Item 5a.

Remonstrators: See Item 5a.

Building Department's Comments: See Item 5a.

Board's Discussion: See Item 5a.

Board's Decision: See Item 5a.

### 6. a. St. Anthony – Developmental Variance

Owner: Doris M. Dunn, 12260 Rolling Hills Road, Monmouth, Oregon 97361

Petitioner: Franciscan St. Anthony Health/Franciscan St. Margaret Health,  
1201 North Main Street, Crown Point, Indiana

Vicinity: 6905 W. 133<sup>rd</sup> Avenue, Cedar Lake, Indiana 46303

Request: Petitioner is requesting a Variance from Zoning Ordinance 496, Title XIII – Neighborhood Business B-1 Zoning District. Section 5: Area, Width, and Yard Regulations: B. "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 a part of the Federal Aid Urban System, as delineated by the State Highway Commission, a distance of fifty (50) feet." **And** D. Rear Yard: "There shall be a rear yard on each lot, the distance shall be not less than thirty (30) feet from the rear lot line."

*Petitioner is requesting a developmental variance to allow parking within the allotted front and rear yard setbacks.*

Attorney to Review Legals: Attorney Tim Kuiper stated the notices and publications are in order for tonight's meeting.

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Petitioner's Response: Deborah Nelson was present at tonight's meeting to seek approval for a variance to allow parking within the allotted front and rear yard setbacks, which is consistent with the site plan that was approved through the Plan Commission.

Remonstrators: Lamont Titus of 13303 Sherman Street was present at tonight's meeting. Mr. Titus stated concerns of drainage flow. Attorney Tim Kuiper explained that drainage must be approved by the Town Engineers before anything is done on site. Mr. Titus also stated concerns regarding dimly lit areas in the parking lot areas near his home. It was explained that the area near his home would be enclosed dumpster areas.

Building Department's Comments: None.

Board's Discussion: None.

Board's Decision: Tim Kubiak moved to grant the 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 6-0.

### 6. b. St. Anthony – Variance of Use

Owner: Doris M. Dunn, 12260 Rolling Hills Road, Monmouth, Oregon 97361  
Petitioner: Franciscan St. Anthony Health/Franciscan St. Margaret Health,  
1201 North Main Street, Crown Point, Indiana  
Vicinity: 6905 W. 133<sup>rd</sup> Avenue, Cedar Lake, Indiana 46303  
Request: Petitioner is requesting a Variance of Use from Zoning Ordinance No. 496, Title XXII, Sign Regulations.

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

Attorney to Review Legals: Attorney Tim Kuiper stated the notices and publications are in order for tonight's meeting. Attorney Kuiper also stated that the Petitioner is able to request a developmental variance to allow a sign that exceeds the maximum size in a B-1 Zoning District.

Petitioner's Response: Deborah Nelson was present to request a variance to allow an oversized, illuminated digital sign. A site plan was provided to show details of the sign.

Remonstrators: None.

Building Department's Comments: None.

Board's Discussion: Tim Kubiak stated the sign is presented as approximately one hundred fifteen (115) square feet. The maximum allowed size is sixty (60) square feet. Tim Kuiper stated that messages must remain on the screen for a minimum of six (6) seconds, messages may not scroll from side to side, and messages may not flash. These rules are to prevent too much distraction to drivers.

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Board's Recommendation to Town Council: Tim Kubiak moved to send a favorable recommendation to approve the sign as presented, with contingencies, to the Town Council, 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 4-0.

### 7. Thompson – Developmental Variance

Owner: Brian & Marilee Spender, 13701 Lauerman St Cottage 65, Cedar Lake, Indiana 46303

Petitioner: Ricky A & Janet G Thompson, 646 Davis Circle, Crown Point, Indiana 46307

Vicinity: 13701 Lauerman St Lot 75, Cottage 78, Cedar Lake, Indiana 46303

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: Each lot shall front on a dedicated and improved street. Each front yard in this Residential Zoning District shall extend across the full width of the zoning lot and lying between the lot line which fronts on a street on which the main entrance to said building exists. There shall be a front yard between the building line and the highway and street right-of-way lines as follows:...4) "On all other streets, a distance of thirty (30) feet.

*Petitioner is requesting a variance be granted to allow front yard setback of zero (0) feet on the North building line. Petitioner is requesting a variance to be granted to allow a front yard setback of zero (0) feet on the East building line. Petitioner is requesting a variance be granted to allow a front yard setback of five (5) feet on the South building line.*

Attorney to Review Legals: Attorney Tim Kuiper stated the notices and publications are in order for tonight's meeting.

Petitioner's Response: Rick and Janet Thompson were present at tonight's meeting. Mr. Thompson stated that he wants to build the residence at the northeastern corner of the lot, which would leave zero (0) feet on the north and east sides. There will be a six (6) foot setback on the south building line, which will allow room for a sidewalk. It was explained that the surrounding areas around the proposed home are unbuildable. Mr. Thompson also explained that he chose that portion of the lot because it requires the least amount of tree clearing, as well as the view of the lake from that spot.

Remonstrators:

- A letter was received from Cedar Lake Ministries; **FOR.**
- Senusi Matuwa; **FOR.**

Building Department's Comments: None.



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Board's Discussion: Tim Kubiak stated he would like to at least maintain a one (1) foot setback on each side to prevent possible future issues.

Board's Decision: Tim Kubiak moved to grant the variance as requested, and to maintain a one (1) foot setback on the north and east side building lines, 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 4-0.

**Correspondence:** None.

**Public Comment:** None.

**Adjournment:** Jeff Bunge adjourned the meeting at approximately 9:35 p.m.

**Press Session:** None

\_\_\_\_\_  
James Hunley

\_\_\_\_\_  
Tim Kubiak

\_\_\_\_\_  
Eric Burnham

\_\_\_\_\_  
Jeff Bunge, Vice Chairman

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

Attest: \_\_\_\_\_  
Jenn Montgomery, Recording Secretary