

**Town of Cedar Lake-Board of Zoning Appeals
Public Meeting Minutes
September 15, 2011**

The Cedar Lake Board of Zoning Appeals held their Public Meeting on Thursday, September 15, 2011. The meeting was called to order at approximately 7:05 p.m. at the Cedar Lake Town Hall. Those Members present were: Jeremy Kuiper, Tim Kubiak, 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. Diane Cusack, member, was not present at tonight's meeting.

Minutes: Jeff Bunge moved to approve the Minutes from the August 18, 2011 Public Meeting. Eric Burnham 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. 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.

Deferred to October 20, 2011 Public Meeting.

New Business:

1. Porter – Variance of Use

Owner/Petitioner: Craig Porter, 13600 Cedar Street, Cedar Lake, Indiana

Vicinity: 9502 W 142nd Place, Cedar Lake, Indiana

Request: Petitioner is requesting a Variance of Use from Zoning Ordinance No. 496, Title XXIII – Accessory Regulations. Section 1: General Accessory Regulations: A.1) "There must be a complete residential structure on any given parcel of land prior to construction of any accessory building..."

This Variance of Use is to allow an existing accessory structure for the use of storage without an existing residential structure.

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

Petitioner's Response: Petitioner was not present at tonight's meeting, but provided the Board with an intent letter stating he would like to use the building for storage.

Remonstrators: None.

Building Department's Comments: Recording Secretary Jenn Montgomery explained that Mr. Porter has an existing garage on a parcel of land that has no residential structure.

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The electricity is being run to the garage from an adjacent property and Mr. Porter would like to get approval from the Board in order to have electrical service run directly to his property.

Board's Discussion: Tim Kubiak confirmed that the adjacent home providing the electricity was owned by the Porter family, but has recently been sold. The Board clarified that the building already has electric service, but that Mr. Porter would like his own electric line run to the building, rather than having electricity run from an adjacent property. Jeff Bunge asked if there are any other structures on the property. Ian Nicolini stated that there is only a concrete pad, not another building. Tim Kubiak stated that the adjacent property had just had their electric service upgraded and that he had recently done an inspection at the home next door. It shouldn't be any problem to have electric service run at this property. Jeremy Kuiper asked if he will have any outdoor storage.

Board's Recommendation to Town Council: Tim Kubiak moved to send a Favorable Recommendation to the Town Council to allow an existing accessory building for the use of indoor storage only, and that no outdoor storage shall be allowed, 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 4-0.

2. Goodfellas – Variance of Use

Owner/Petitioner: Dapan Investments, LLC, 8100 W 128th Avenue, Cedar Lake, Indiana

Vicinity: 11200 W 129th Avenue, Cedar Lake, Indiana

Request: Petitioner is requesting a Variance of Use from Zoning Ordinance 496, Title XXII, Sign Regulations

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

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

Petitioner's Response: Jennifer Jakubielski stated that the size of the sign will remain the same size, but that the letter board will be replaced by a digital sign.

Remonstrators: None.

Building Department's Comments: None.

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Board's Discussion: Tim Kubiak explained that there are some contingencies that are required with having a digital sign. Those contingencies include no flashing, no scrolling from side to side, no alternating blue and red, and messages must stay for a minimum of six (6) seconds.

Board's Decision: Tim Kubiak moved to send a Favorable Recommendation to the Town Council to allow the use of a digital sign, with the contingencies that the sign may not flash, messages must remain on the screen for a minimum of six (6) seconds, and the sign may not scroll from side to side, 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 4-0.

3. Leo & Sons – Variance of Use

Owner/Petitioner: Steve Govert, 13406 Wicker Avenue, Cedar Lake, Indiana

Vicinity: 13406 Wicker Avenue, Cedar Lake, Indiana

Request: Petitioner is requesting a variance from Zoning Ordinance 496, Title XIV, General Business (B-3) Zoning District.

This Variance of Use request is to allow a secondary use of above-ground storage and sale of propane gas in conjunction with an existing feed and garden center.

Attorney to Review Legals: Tim Kuiper stated the notices and publications are in order for tonight's hearing. Attorney Kuiper stated that in this zoning district, only one principal use is allowed, and that is what the variance is for tonight.

Petitioner's Response: Tom of Hicks Gas was present at tonight's meeting on behalf of Steve Govert. Tom explained that Leo & Sons would like to begin storing and selling propane gas in addition to a feed and garden center. Tom stated that everything is done according to codes, and that crash posts have been installed. Nick Mager of the Cedar Lake Fire Department has also been contacted and that everything looks okay with the Department.

Remonstrators: None.

Building Department's Comments: Ian Nicolini stated that the zoning ordinance does not specifically allow or prohibit this use. Mr. Nicolini also stated that the setbacks in the plans are adequate and that he has no issues with this request.

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Board's Discussion: Jeff Bunge stated concerns about safety and whether or not the crash posts are adequate. Tom of Hicks Gas stated that the crash posts are nationally rated and state recommended. Ian Nicolini also stated that the set back includes a substantial ditch, which would make it more difficult to hit the propane tank.

Board's Decision: Tim Kubiak moved to send a Favorable Recommendation 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.

Eric Burnham seconded. After a roll call vote, the motion carried 4-0.

Correspondence: None.

Public Comment: None.

Adjournment: Jeff Bunge moved to adjourn the meeting. Eric Burnham seconded. Meeting was adjourned at approximately 7:26 p.m.

Press Session: None

James Hunley

Tim Kubiak

Eric Burnham

Jeff Bunge, Vice Chairman

Jeremy Kuiper, Chairman

Attest: _____
Jenn Montgomery, Recording Secretary