

**Town of Cedar Lake-Board of Zoning Appeals
Public Meeting Minutes
October 20, 2011**

The Cedar Lake Board of Zoning Appeals held their Public Meeting on Thursday, October 20, 2011. The meeting was called to order at approximately 7:02 p.m. at the Cedar Lake Town Hall. Those Members present were: Jeremy Kuiper, Tim Kubiak, Eric Burnham, and Diane Cusack. Attorney Tim Kuiper, of Austgen, Kuiper & Associates, Ian Nicolini, Town Administrator, and Jenn Montgomery, Recording Secretary, were also present. Jeff Bunge, Vice-Chairman, was not present at tonight's meeting.

Minutes: Eric Burnham moved to approve the Minutes from the September 15, 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. 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 November, 2011 Public Meeting.

New Business:

1. United EMS – Special Use Variance

Owner: Aberdeen Resources, Ltd., PO Box 92604, Southlake, Texas

Petitioner: United Emergency Medical Services, 9019 W 133rd Avenue, Cedar Lake, Indiana

Vicinity: 9019 W 133rd Avenue, Cedar Lake, Indiana 46303

Request: Petitioner is requesting a Special Use Variance from Zoning Ordinance No. 496, Title XVI – Light Industrial (M-1) Zoning District, Section 2: Use Regulations: A. "All uses within this Light Industrial (M-1) Zoning District shall be permitted only upon receipt of authorization with a Special Use Permit from the Board of Zoning Appeals."

This Special Use Variance request is to allow the dispatch, service, parking and storing of the business' vehicles within an enclosed building.

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

Petitioner's Response: Jason Blankenship was present at tonight's meeting to request a special use variance to operate an emergency medical service in a building zoned industrial. Mr. Blankenship stated that they have moved to the new location because they are a growing business and needed additional space. The operation will be the same and that the extra room for allow for more vehicles and the ability to expand. Mr.

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Blankenship stated that the company does mainly non-emergency calls, but sometimes backs up other communities when needed. Mr. Blankenship stated that only general maintenance is going on, and that no remodeling or anything similar will be happening in the buildings. Jason also stated that they have had and passed a fire inspection from the Nick Mager of the Cedar Lake Fire Department.

Remonstrators: None.

Building Department's Comments: Ian Nicolini stated that the zoning ordinance states that a recommendation needs to come from the Plan Commission when applying for a special use variance and that Tim Kubiak would state concerns that the commission had about the application.

Board's Discussion: Tim Kubiak inquired if all the buildings on the premises will be occupied. Jason Blankenship stated that not right now, but they are in the process of purchasing the whole property, as they are renting right now. The Board stated concerns that United EMS occupied the building long before they applied for a variance, and that this same scenario occurred the previous year with the company. Tim Kubiak reiterated that approval needs to be sought before moving and occupying another location. Jeremy Kuiper inquired if they plan to do their own maintenance on the vehicles and if fuel will be stored on the premises. Jason Blankenship replied that they have a couple of part-time mechanics that service the vehicles, but nothing major and that maybe eventually they will consider doing that full-time. Mr. Blankenship stated that no automobile fuel is currently being stored, and aside from some engine oil and cleaning supplies, nothing out of the ordinary is being stored.

Board's Recommendation to the Town Council: Eric Burnham moved to send a favorable recommendation to the Town Council, 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 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.

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

2. Elmwood Chapel – Developmental Variance

Owner: John Betkowski, 11300 W 97th Lane, St. John, Indiana

Petitioner: Landmark Signs, 7424 Industrial Drive, Chesterton, Indiana

Vicinity: 9931 Lincoln Plaza Way, Cedar Lake, Indiana

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XXII – Sign Regulations. Section 3:A.1.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 Developmental Variance is to allow a freestanding sign to total approximately eighty-two (82) square feet in size, and a building sign to total approximately forty-one (41) square feet in size.

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

Petitioner’s Response: Scott Toth of Landmark Signs was present at tonight’s meeting to request a variance for two (2) signs to be located at the new Elmwood Funeral Home. One (1) sign will be on the building, and will be a total of approximately forty-one (41) feet in size. The freestanding sign will be approximately eighty-two (82) square feet in size and will be located in the island approaching the building, and will be about ten (10) feet from the curb.

Remonstrators: None.

Building Department’s Comments: None.

Board’s Discussion: Eric Burnham inquired whether or not the freestanding sign will be illuminated. Mr. Toth responded that it will be internally illuminated, but that the sign will not be digital. Tim Kubiak asked where the electricity will come from for the freestanding sign. Mr. Toth stated that it will come from the building and run out to the sign. Tim Kubiak and Eric Burnham agreed that because of the size of the building and its location, the sizes are considered reasonable. Attorney Tim Kuiper inquired whose property the freestanding sign will be on, and that the Petitioner should have approval from the landowner before the sign is erected. Depending on where the exact location of the sign is, either Cedar Lake Ventures or Evolution Fitness owns the property.

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

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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 3-1, with Jeremy Kuiper voting against.

3. Mehok – Developmental Variance

Owner/Petitioner: Timothy John Mehok, 12752 Hess Street, Cedar Lake, Indiana

Vicinity: 12752 Hess Street

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title VIII – Residential (R-2) Zoning District. Section 4: D. Rear Yard: "There shall be a rear yard of not less than twenty-five percent (25%) of the depth of the lot."

This Developmental Variance is to allow a deck with a rear yard setback of approximately twenty (20) feet. The required rear yard setback for this lot is approximately 29.25 feet.

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

Petitioner's Response: Tim Mehok was present at tonight's meeting to request a variance to allow a deck with a lesser setback than what is allowed. Mr. Mehok stated that he wants to build a deck that is approximately fifteen feet (15') by twenty feet (20') and that the zoning ordinance would only allow him to build a deck that is five feet (5') deep.

Remonstrators: None.

Building Department's Comments: None.

Board's Discussion: The Board discussed how many lots are like this in the neighborhood – approximately thirty (30) lots are this size. Eric Burnham stated he does not think that Mr. Mehok is requesting anything too outrageous and that the Board will probably see a lot of these requests when the rest of the subdivision is developed.

Board's Decision: Tim Kubiak moved to approve 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 4-0.

4. Wilson – Use Variance

Owner/Petitioner: Robert Wilson, 8337 W 128th Place, Cedar Lake, Indiana
Vicinity: Corner of Wrightwood Street and 128th 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 request is to allow the construction of an accessory building without the construction or existence of a primary residential structure.

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

Petitioner’s Response: Robert Wilson was present at tonight’s meeting to request the construction of a garage on an empty lot. Mr. Wilson stated he wants to construct the garage to improve the lot. Mr. Wilson stated that he has removed many trees on the lot, and that building a garage will increase the value of the property, which will make it possible to take out a loan to build a home at a later date. Mr. Wilson explained he has several different options for his garage and future home. The garage will be erected by the end of 2011, with the house being built during 2012.

Remonstrators: None.

Building Department’s Comments:

Board’s Discussion: Tim Kubiak inquired what the size of the lot is and asked Mr. Wilson what size his proposed garage and house will be. Discussion occurred which direction the house would have to front – Wrightwood Street. Discussion also occurred regarding seeking a variance for the home, garage, and all variances that include the construction of both. Tim Kubiak explained that it would be cheaper and easier in the long run for Mr. Wilson to come back with more detailed plans showing where specifically the garage and home will sit, including setbacks and sizes for each. This way, there won’t be any confusion or problems in the future.

Board’s Recommendation to the Town Council: Tim Kubiak moved to defer this item until November 10, 2011. Diane Cusack seconded. After a voice vote, the motion carried unanimously.

5. Hanover Community School Corporation – Use Variance

Owner/Petitioner: Hanover Middle School Building Corporation, 9520 W 133rd Avenue
Vicinity: 10631 W 141st Avenue, Cedar Lake, Indiana
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 hearing.

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Petitioner's Response: Steve Goff of Hanover Central School Corporation was present at tonight's hearing to request a digital sign.

Remonstrators: None.

Building Department's Comments: Ian Nicolini stated that this request is straight-forward, and to include the conditions with digital message signs.

Board's Discussion: Tim Kubiak stated that the size of the sign fits what the zoning ordinance calls for.

Board's Recommendation to the Town Council: Tim Kubiak moved to approve the variance as requested, contingent that the sign does not scroll from side to side, the sign does not flash, and that messages remain on the screen for a minimum of six (6) seconds, and 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.

6. Franciscan Friary – Use Variance

Owner/Petitioner: The Order of the Franciscan Fathers, PO Box 156, Cedar Lake, Indiana

Vicinity: 12915 Parrish Avenue

Request: Petitioner is requesting a Variance of Use from Zoning Ordinance No. 496, Title VII – Residential (R-1) Zoning District, Section 1: Intended Purposes: "This residential Zoning District is intended to be the most restrictive of the Residential Zoning Districts by providing for an environment of predominantly low-density, one (1) family detached dwellings, along with other residentially related facilities which serve the residents in the Zoning District; **and**

Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XXIII – Accessory Regulations, Section 1: General Accessory Regulations: A. 3) Only two (2) accessory buildings, excluding attached garages, shall be allowed per building lot.

*This Variance of Use request is to allow higher density dwellings than allowed in this Zoning District. Petitioner is requesting this Variance to allow the use of a friary; **and** Petitioner is requesting a Developmental Variance to allow more than two (2) accessory buildings.*

Attorney to Review Legals: The notices and publications for this item are in order. The amended site plan was approved at the Plan Commission on October 19, 2011.

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Petitioner's Response: See Building Department's Comments.

Remonstrators: None.

Building Department's Comments: Ian Nicolini stated that the property will still be used in the same manner that it always has. However, the upper house of the friary will be torn down, but by going through the Plan Commission and Board of Zoning Appeals, the Friary will be compliant with the current Zoning Ordinance. Ian Nicolini also stated that the Friary is going to be establishing a one- (1) lot subdivision through the Plan Commission in November.

Board's Discussion: Discussion occurred regarding what buildings will be removed, and where the friars will be moving to. The upper house will be removed, and the lower house will be used a dormitory. By going through these variances, the Friary will now conform to the current zoning standards.

Board's Decision: Tim Kubiak moved to approve 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;
- 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.

Correspondence: None.

Public Comment: None.

Adjournment: Diane Cusack moved to adjourn the meeting. Eric Burnham seconded. Meeting was adjourned at approximately 8:00 p.m.

Press Session: None

James Hunley

Tim Kubiak

Eric Burnham

Jeff Bunge, Vice Chairman

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Jeremy Kuiper, Chairman

Attest: _____
Jenn Montgomery, Recording Secretary