

**Town of Cedar Lake – Board of Zoning Appeals  
Public Meeting Minutes  
November 10, 2011**

The Cedar Lake Board of Zoning Appeals held their Public Meeting on Thursday, November 10, 2011. The meeting was called to order at approximately 7:04 p.m. at the Cedar Lake Town Hall. Those Members present were: Jeff Bunge, 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. Jeremy Kuiper, Chairman, was not present at tonight's meeting.

**Minutes:** Diane Cusack moved to approve the Minutes from the October 20, 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 134<sup>th</sup> Place, Cedar Lake, Indiana

Vicinity: 6629 W 133<sup>rd</sup> Avenue

Request: Petitioner is requesting 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 from June 16, 2011 Meeting**

**Deferred from July 21, 2011 Meeting**

**Deferred from August 18, 2011 Meeting**

**Deferred from September 15, 2011 Meeting**

**Deferred from October 20, 2011 Meeting**

(1) The Administrative Assistant will contact the church in order to find out the status of this item.

**2. Wilson – Variance of Use**

Owner/Petitioner: Robert Wilson, 8337 W 128<sup>th</sup> Place, Cedar Lake, Indiana

Vicinity: Corner of Wrightwood Street and 128<sup>th</sup> 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 that this item was properly continued from the October 20, 2011 Meeting.

**Petitioner's Comments:** Jennifer Wilson was present at tonight's meeting on behalf of Robert Wilson to request a Variance of Use to construct a garage with no residential structure. Ms. Wilson provided documents to the Board showing plans of the future construction of a residential structure. Ms. Wilson explained that Robert Wilson would like to improve the lot with a garage first so that he may take a loan against the property in order to construct the home.

**Remonstrators:** None.

**Building Department's Comments:** None.

**Board's Discussion:** Jeff Bunge inquired what the timeframe will be for the construction of the new home. Jennifer Wilson responded that Mr. Wilson is planning to construct the residence by the end of 2012. Mr. Bunge responded that he does not have a problem approving this variance, as long as there is a timeframe in place for the construction of the residential structure. Eric Burnham stated that he was pleased to see the Petitioner with a proposed drawing for the structures, as they had nothing to

examine at the previous meeting. Tim Kubiak stated that if granted, Mr. Wilson would still need a variance for the location of the garage, which could be included at tonight's hearing.

Board's Recommendation to the Town Council: Diane Cusack moved to send a favorable recommendation to the Town Council for the variance of use, as requested, with the contingency that the garage and house be applied for on the same permit. Tim Kubiak seconded. After a roll call vote, the motion carried 4-0.

Board's Decision: Tim Kubiak moved to approve the developmental variance to allow a detached garage in the front yard of an unimproved road and to allow a setback off said road of six feet (6'), and to allow a residential structure with a front yard setback of twenty feet (20') to allow the construction of an eight foot (8') deck, if desired, and a rear yard setback of six feet (6'). Diane Cusack seconded. After a roll call vote, the motion carried 4-0.

## **New Business:**

### **1. Kors – Developmental Variance**

Owner/Petitioner: Ronald Kors, 13640 Morse Street, Cedar Lake, Indiana

Vicinity: 13640 Morse Street, Cedar Lake, Indiana

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XII – Neighborhood Business B-1 Zoning District, Section 5: Area, Width, and Yard Regulations: B. Front Yard: ...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 the construction of a sixteen hundred (1,600) square foot pole barn with a front yard setback of approximately thirty-five feet (35') and a rear yard setback of approximately twenty-five feet (25').*

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

Petitioner's Comments: Ronald Kors was present at tonight's meeting to request a variance to construct a pole barn within the required setbacks for maintenance and storage of equipment.

Remonstrators: None.

Building Department's Comments: None.

Board's Discussion: Tim Kubiak inquired what the sidewall height and roof pitch will be. Mr. Kors responded that the building will have a sidewall height of twelve feet (12') and that it will have a 4/12 roof pitch. Diane Cusack expressed concerns regarding the effect the construction of the barn will have on drainage. It does not appear that any drainage problems will arise from this building. Tim Kubiak asked where the entrance to the barn will be. Mr. Kors stated the doors will face 136<sup>th</sup> Court. There will be a sliding door on the north side of the building, and an overhead door on the east. Discussion occurred about the benefit of having a building to be able to store Mr. Kors' equipment, rather than storing it outside.

Board's Decision: Motion made and seconded to approve the variance, as requested, and to allow twelve foot (12') sidewalls and a 4/12 roof pitch, 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.

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

## 2a. Strack & Van Til – Developmental Variances for Site Plan

Owner/Petitioner: Alfred W. Bunge, Jr. c/o David K. Ranich, Hinshaw & Culbertson, LLP,  
322 Indianapolis Blvd., Suite 201, Schererville, Indiana 46375  
SVT, LLC c/o Glenn Patterson, Lucas, Holcomb & Medrea, LLP, 300 East  
90<sup>th</sup> Drive, Merrillville, Indiana 46410

Vicinity: 9704 & 9708 Lincoln Plaza

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XXVII – Off-Street Parking and Off-Street Loading, Section 4: Off-Street Parking: F. Area: “A required off-street parking space shall be a minimum of ten (10) feet in width and twenty (20) feet in length...”;  
**and**

Title XIII – Community Business (B-2) Zoning District, 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 a part of the Federal Aid Urban System, as delineated by the State Highway Commission, a distance of fifty (50) feet; **and**

Title XXVII – Off-Street Parking & Off-Street Loading, Section 4: Off-Street Parking: G. Access: “... No driveway across public property at the right-of-way line shall exceed a width of twenty-five (25) feet. The width may be increased to thirty-five (35) feet to accommodate truck traffic.”

*This Developmental Variance request is to allow ten (10) foot wide and nineteen (19) foot long parking stalls, to allow parking within the required fifty (50) foot Parrish Avenue setback, and to allow a sixty-seven (67) foot curb cut on Parrish Avenue.*

Attorney to Review Legals: Attorney Tim Kuiper stated that notices and publications were in order for tonight’s hearing. Attorney Kuiper also stated that items 2a-2c may be heard together for simplicity’s sake. Item 2a involves parking and the curb cut, 2b is a variance request for the signs, and 2c is a request for a secondary use to allow a banking center within the grocery store.

Petitioner’s Response: Glenn Patterson of Lucas, Holcomb & Medrea was present at tonight’s meeting on behalf of SVT, LLC. Attorney Patterson stated that SVT is requesting that the parking stalls be ten (10) by nineteen (19) feet, that parking be allowed within the Parrish Avenue setback, and to allow a sixty-seven (67) foot curb cut to allow for truck traffic at the rear of the building. This request is necessary, as the Zoning Ordinance only allows for curb cuts up to thirty-five (35) feet. Secondly, SVT is requesting allowance of three (3) on-premise signs, all of which will be on the building: two (2) for Strack & Van Til and one (1) for the branch bank to be located within the store. There will be no monument sign for the store at this time. The third variance request is to allow a secondary use of a full-service bank within the grocery store. The bank will be approximately 400-500 square feet, similar to those in Crown Point and St. John.

Remonstrators: Eloise Chorney of 9704 W 134<sup>th</sup> Place was present at tonight’s meeting. Ms. Chorney asked if the building will be closer to her property with the new construction. The building will be approximately twenty-five (25) feet closer. Ms. Chorney inquired if truck traffic will be closer to her property because of this change. It was explained that the service road will still remain in approximately the same location.

Building Department’s Comments: None.

Board’s Discussion: Jeff Bunge inquired if parking will still be located in Lot 3, located in front of the hardware sign. Attorney Patterson responded yes. Eric Burnham asked when work will begin. Attorney Patterson stated there are several more steps to be taken until construction can begin. Attorney Kuiper stated that they will be in front of the Plan Commission on November 16, 2011 for site plan and preliminary plat approval.

Board’s Decision: Tim Kubiak moved to approve the variance, as requested, and that this request is valid for one (1) year, 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 3-0. Jeff Bunge removed himself from voting on these items to avoid a conflict of interest, as his family has ownership in True Value.

## **2b. Strack & Van Til – Developmental Variance**

Owner/Petitioner: SVT, LLC c/o Glenn R. Patterson, Lucas, Holcomb & Medrea, LLP 300 East 90<sup>th</sup> Drive, Merrillville, Indiana 46410

Vicinity: 9704 Lincoln Plaza

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XXII – Sign Regulations, Section 3: Signs in Business or Industrial Districts: 1. No more than two (2) on-premise signs shall be allowed on a zoning lot; **and** 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 three (3) on-premise signs as follows: 1) a 225 square foot “Strack and Van Til” sign on the north face of the new grocery store; 2) a 175 square foot “Strack and Van Til” sign on the east face of the new grocery store; and 3) a sixty (60) square foot branch bank sign on the north face of the new grocery store.*

Attorney to Review Legals: See item #2a.

Petitioner’s Response: See item #2a.

Remonstrators: See item #2a.

Building Department’s Comments: See item #2a.

Board’s Discussion: See item #2a.

Board’s Decision: Tim Kubiak moved to grant the variance as requested, to include the variance is valid for one (1) year, 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 3-0.

## **2c. Strack & Van Til – Use Variance**

Owner/Petitioner: SVT, LLC c/o Glenn R. Patterson, Lucas, Holcomb & Medrea, LLP 300 East 90<sup>th</sup> Drive, Merrillville, Indiana 46410

Vicinity: 9704 Lincoln Plaza

Request: Petitioner is requesting a Variance of Use from Zoning Ordinance No. 496, Title XIV, General Business (B-3) Zoning District.

*This Use Variance request is to allow a secondary use of a banking center within a grocery store.*

Attorney to Review Legals: See item #2a.

Petitioner’s Response: See item #2a.

Remonstrators: See item #2a.

Building Department’s Comments: See item #2a.

Board’s Discussion: See item #2a.

Board's Recommendation to the Town Council: Eric Burnham moved to send a favorable recommendation to the Town Council for the variance as requested, to include that the request is valid for one (1) year, 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.

Tim Kubiak seconded. After a roll call vote, the motion carried 3-0.

### **3a. CVS – Developmental Variance**

Owner: Wornhoff Family Trust, 11113 W 133<sup>rd</sup> Avenue, Cedar Lake, Indiana; **and**  
John Schutz, 11009 W 133<sup>rd</sup> Avenue, Cedar Lake, Indiana; **and**  
Heidi Mees-Duncan, PO Box 587, Cedar Lake, Indiana  
Petitioner: GB Indiana 2, LLC, 600 E 96<sup>th</sup> Street, Suite 150, Indianapolis, Indiana  
Vicinity: 11113 W 133<sup>rd</sup> Avenue, Cedar Lake, Indiana; **and**  
11105 W 133<sup>rd</sup> Avenue, Cedar Lake, Indiana; **and**  
11109 W 133<sup>rd</sup> Avenue, Cedar Lake, Indiana; **and**  
13311 Wicker Avenue, Cedar Lake, Indiana  
(Southeast Corner of 133<sup>rd</sup> Avenue and US 41)  
Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XXVII – Off-Street Parking and Off-Street Loading, Section 4: Off-Street Parking: E. Parking Spaces: “The number of parking spaces required for any particular building or land use shall be calculated on the basis of specific need.”; **and**

Title XXVII – Off-Street Parking and Off-Street Loading, Section 4: Off-Street Parking: F. Area: A required off-street parking space shall be a minimum of ten (10) feet in width and twenty (20) feet in length...”; **and**

Title XIII – Community Business (B-2) Zoning District, Section 5: Area, Width and Yard Regulations: B: Front Yard: “... 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: 1) On existing four (4) lane Federal or State highways a distance of sixty (60) feet,” **and**, 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**

Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XXII – Sign Regulations, Section 3: Signs in Business or Industrial Districts: A.1. No more than two (2) on-premise signs shall be allowed on a zoning lot. **And** 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.

*Petitioner is requesting a Developmental Variance to allow sixty-five (65) parking stalls, approximately twenty-five (25) stalls less than the ninety (90) stalls required per the ordinance, ten (10) foot wide by nineteen (19) foot long parking stalls, and to allow parking within the required fifty (50) foot and sixty (60) foot setbacks.*

*Petitioner is also requesting a Developmental Variance to allow more than two (2) on-premise signs, and also to exceed the maximum size allowed per the Zoning Ordinance.*

Attorney to Review Legals: Attorney Tim Kuiper stated the notices and publications are in order for tonight’s meeting. These items may also be included with item 3b.

Petitioner’s Comments: Craig Forgey of GB Indiana 2, LLC was present at tonight’s meeting representing CVS Pharmacy. These variances are being sought in order to begin work on the new CVS Pharmacy development. Mr. Forgey was requesting a lesser amount of parking stalls required, as well as the parking stalls to be ten (10) by nineteen (19) feet, and to allow parking within the required fifty (50) and sixty (60) foot setbacks. A variance was also requesting more than two (2) on-premises signs, which will also exceed the maximum size allowed. Total signage will be seven (7) signs on the building, and two (2) digital signs on the premises. One (1) digital sign will be on 133<sup>rd</sup> Avenue, while the second sign will be located on US 41.



Remonstrators: John Schutz of 11109 W 133<sup>rd</sup> Avenue stated that this development will clean up the intersection and will be great for the Town of Cedar Lake and that he welcomes CVS as a neighbor. – **For.**  
Scott Gerstenkorn of 13317 Wicker Avenue also stated that this development will be a great addition to the Town. – **For.**

Building Department's Comments: Jenn Montgomery stated that Mr. Forgey will be before the Plan Commission on November 16, 2011 for site plan approval and preliminary plat approval.

Board's Discussion: Jeff Bunge asked if any of the signage will be on the corner of the intersection. Craig Forgey stated that the corner area will be clear of any signage. Diane Cusack asked how many parking spaces are at the current location. Craig Forgey stated there will be more spaces than the current CVS, and that the proposed building is also larger. Jeff Bunge inquired how many spaces will be for employees. Mr. Forgey stated that the angled spaces on the east side of the building will probably be designated as employee parking. Jeff Bunge asked where the larger digital sign will be located, to which Mr. Forgey responded that the larger will be located on US 41. Discussion occurred regarding the need for multiple digital signs. Attorney Tim Kuiper stated there are typically three (3) contingencies placed on digital signs: a minimum of six (6) seconds per message, no side to side scrolling, and no flashing. Mr. Forgey stated that would not be a problem. Eric Burnham questioned if CVS would be willing to erect only one (1) digital sign. Tim Kubiak stated he would be happier with only one (1) digital sign as well. Tim Kubiak stated that the size of the digital sign on US 41 will be large enough for customers to see.

Board's Decision: Eric Burnham moved to approve the developmental variances, 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.

Tim Kubiak seconded. After a roll call vote, the motion carried 4-0.

### **3b. CVS – Use Variance**

Owner: Wornhoff Family Trust, 11113 W 133<sup>rd</sup> Avenue, Cedar Lake, Indiana; **and**  
John Schutz, 11009 W 133<sup>rd</sup> Avenue, Cedar Lake, Indiana; **and**  
Heidi Mees-Duncan, PO Box 587, Cedar Lake, Indiana  
Petitioner: GB Indiana 2, LLC, 600 E 96<sup>th</sup> Street, Suite 150, Indianapolis, Indiana  
Vicinity: 11113 W 133<sup>rd</sup> Avenue, Cedar Lake, Indiana; **and**  
11105 W 133<sup>rd</sup> Avenue, Cedar Lake, Indiana; **and**  
11109 W 133<sup>rd</sup> Avenue, Cedar Lake, Indiana; **and**  
13311 Wicker Avenue, Cedar Lake, Indiana  
(Southeast Corner of 133<sup>rd</sup> Avenue and US 41)  
Request: Petitioner is requesting a Use Variance from Zoning Ordinance No. 496, Title XXII – Sign Regulations.

*Petitioner is requesting a Use Variance to allow an illuminated digital sign.*

Attorney to Review Legals: See Item 3a.

Petitioner's Comments: See Item 3a.

Remonstrators: See Item 3a.

Building Department's Comments: See Item 3a.

Board's Discussion: See Item 3a.

Board's Recommendation to Town Council: Tim Kubiak moved to send a favorable recommendation for one (1) of two (2) free-standing signs to be digital, with the contingencies that messages remain on the screen for a minimum of six (6) seconds, no side to side scrolling, and no flashing, 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:** Meeting was adjourned at approximately 8:09 p.m.

**Press Session:** None

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James Hunley

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

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Eric Burnham

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Jeff Bunge, Vice Chairman

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

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