

**Town of Cedar Lake – Board of Zoning Appeals**  
**Public Meeting Minutes**  
**April 12, 2012**

The Cedar Lake Board of Zoning Appeals held their Public Meeting on Thursday, April 12, 2012. The meeting was called to order at approximately 7:00 p.m. at the Cedar Lake Town Hall. Those Members present were: Tim Kubiak, Diane Cusack, Jeff Bunge, Vice Chairman, and Jeremy Kuiper, Chairman. Attorney David Austgen, of Austgen, Kuiper & Associates, Ian Nicolini, Town Administrator, and Jenn Montgomery, Recording Secretary, were also present. Eric Burnham arrived at approximately 7:08 p.m.

**Minutes:** Diane Cusack moved to approve the Minutes of the March 15, 2012 Public Meeting. Jeff Bunge seconded. After a voice vote, the motion carried unanimously.

**Public Hearings:**

**New Business:**

**1. Prater – Developmental Variance**

Owner/Petitioner: Edgar M. & Penelope J. Prater, 9710 W 125<sup>th</sup> Avenue, Cedar Lake, Indiana

Vicinity: 9710 W 125<sup>th</sup> Avenue, Cedar Lake, Indiana

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title VII – Residential (R-1) Zoning District, Section 4: Area, Width and Yard Regulations, A. ... “a lot width of not less than ninety (90) feet at the building line shall be provided for every building or other structure erected...”; and B. ...“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 and the nearest line of the principal building on which the main entrance to said building exists.”

*Petitioner is requesting a Developmental Variance to allow a lot width of twenty feet (20') at the building line.*

Attorney to Review Legals: Attorney Tim Kuiper stated this item was properly continued from last month's public meeting.

Petitioner's Response: Ed Prater was present at tonight's meeting. Mr. Prater stated that at the last Plan Commission meeting, it was his understanding that they are just waiting on engineering approval.

Remonstrators: None.

Building Department's Comments: None.

Board's Discussion: Tim Kubiak stated that Mr. Prater's plat approval for a one-lot subdivision was approved at the last Plan Commission meeting, contingent upon engineering and BZA approval. Tim also stated that this variance request is for twenty (20) feet of frontage, not from the building line. The building line is set further back. Jeff Bunge asked if there is still a possibility of the driveway coming off 125<sup>th</sup> Avenue. Mr. Prater stated that the utilities already run through that ingress/egress off Parrish Avenue, and would consume a lot of time and money to redo the plans to come off 125<sup>th</sup> Avenue. Discussion occurred about several concerns from adjoining property owners about drainage. It has been determined by the Town Engineer that they will not be negatively affected by the construction of a driveway through the ingress/egress.

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.

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

**2. Reich – Use Variance**

Owner: Cedar Lake Ventures One, LLC, 1001 E Summit Street, Crown Point, IN

Petitioner: Robert Reich, 9309 W 143<sup>rd</sup> Place, Cedar Lake, IN

Vicinity: 13316 Lincoln Plaza, Cedar Lake, Indiana

Request: Petitioner is requesting a Variance of Use from Zoning Ordinance No. 496, Title XII, Neighborhood Business (B-1) Zoning District;

*This Use Variance request is to allow the operation of a tattoo parlor **and** to allow a secondary use of a tattoo parlor within a barber shop.*

Attorney to Review Legals: Attorney Tim Kuiper stated this item has been properly continued from the last public hearing.

Petitioner's Response: Robert Reich, owner of Bud's Barber Shop, was present at tonight's meeting. Mr. Reich stated he obtained signatures from neighboring businesses stating they are in favor of this business proposal. Mr. Reich presented a new layout of the business, as the Board requested. Mr. Reich stated he would like to use the back door as the entrance for the tattoo parlor, as other businesses in the strip are planning to do the same thing.

Remonstrators: None.

Building Department's Comments: None.

Board's Discussion: Tim Kubiak stated he still does not like the idea of a rear door entrance. Mr. Reich stated that either door could be used for either business. Discussion occurred regarding the layout of the inside of the building. Tim Kubiak asked what the cubicles are for in the tattoo side of the shop. Each cubicle is for each tattoo artist. Discussion occurred regarding customers having to walk through either business in order to get to the other, and regarding the necessity of customers having to walk through the tattoo parlor in order to get to the bathroom. Concerns were stated that some customers may not want to see people getting tattooed while they are going to the washroom. Eric Burnham inquired if the hallway could be moved to go along the wall, rather than going down the center of the store. Discussion occurred regarding concerns of children having to walk through the tattoo parlor. Mr. Reich stated he has thought of this already, as he has kids of his own.

Board's Decision: Diane Cusack moved to send a favorable recommendation to the Town Council, contingent upon the variance staying only with the Petitioner, 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.

Jeremy Kuiper seconded. After a roll call vote, the motion did not pass by a vote of 2-3, with Eric Burnham, Tim Kubiak and Jeff Bunge voting against.

Tim Kubiak moved to defer this item to the May 10, 2012 hearing, in order for the Petitioner to come up with a revised plan. Eric Burnham seconded. After a roll call vote, the motion carried 5-0.

### **3. Hopkins – Developmental Variance**

Owner/Petitioner: Robert & Marilyn Hopkins, Cedar Lake, Indiana

Vicinity: 13137 Polk Street, Cedar Lake, Indiana

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 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 lines as follows: 4) On all other streets, a distance of thirty (30) feet; **and** E. Building Coverage: Not more than twenty-five percent (25%) of the area of the lot may be covered by buildings and/or structures; **and** Title XXIV – Swimming Pool, Section 3: Location: "No portion of an outdoor swimming pool shall be located at a distance of less than ten (10) feet from any side or rear yard property line, or building line, or at any other location where a "structure" is prohibited..."

*Petitioner is requesting a Developmental Variance to allow an addition to be constructed within the required front yard setback and to exceed the maximum allowed lot coverage of twenty-five percent (25%); and to allow a hot tub within the required ten (10) foot setback.*

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

Petitioner's Response: Robert Hopkins was present at tonight's meeting to request a developmental variance. Mr. Hopkins stated he bought the lot to the north of his property. His plan is to take down the existing house to the north and construct an addition to Mr. Hopkins current home. Mr. Hopkins stated the hot tub will be on the deck on the lakeside of the property.

Remonstrators: None.

Building Department's Comments: None.

Board's Discussion: Jeremy Kuiper inquired what the proposed lot coverage will be. Attorney Tim Kuiper stated it will be 34.4% lot coverage. Discussion occurred regarding the fact that even though the Petitioner is requesting a variance to exceed the lot coverage, Mr. Hopkins is still meeting all the required setbacks.

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.

Jeff Bunge seconded. After a roll call vote, the motion carried 5-0.

#### **4. Matthiesen – Developmental Variance**

Owner/Petitioner: Brian Matthiesen, 12840 Hobart Street, Cedar Lake, Indiana

Vicinity: 12840 Hobart Street, Cedar Lake, Indiana

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XXI – Fence Regulations, Section 1, B. Fences shall not be allowed in front yards...”

*Petitioner is requesting a Developmental Variance to allow a fence within the front yard of the lot.*

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

Petitioner's Response: Kate and Brian Matthiesen were present at tonight's meeting to request a variance for their fence. The plan is to install the fence ten (10) feet in front of the house, which would put it within the front yard setback. Ms. Matthiesen provided pictures of what the fence will look like. Ms. Matthiesen explained there are grading problems on the property, and pulling the fence out will make the fence more even. The Matthiesen's neighbor was also present at tonight's meeting, who has no problem with the fence. Ms. Matthiesen also stated that the panels on the fence will be removable, in case anyone needs to access the easement on their property. Ms. Matthiesen stated there will still be about a fifty foot (50') sightline to the stop sign on the corner.

Remonstrators: Maria Moreno of 12841 Fairbanks, **for**.

Building Department's Comments: None.

Board's Discussion: Tim Kubiak asked if this area is serviced by sidewalks. Ms. Matthiesen stated that yes, they are serviced by sidewalks, but the fence will be twenty (20) feet from the fence. Discussion occurred about the neighbor's yard and how it would affect the neighboring home. Because of the way the homes are facing, the fence would be along the neighbor's side yard, rather than her front yard. Tim Kubiak stated concerns about allowing a fence in the front yard of a home that is serviced by sidewalks, as the Board usually does not allow these variances. However, because the neighbor is ok with the fence and the fence is not protruding in her front yard, it seems to be a bit of a different situation.

Board's Decision: Diane Cusack 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.

Jeff Bunge seconded. After a roll call vote, the motion carried 3-1, with Tim Kubiak voting against. Eric Burnham stepped out of the meeting and was unable to vote.

#### **5. Black – Special Use Variance**

Owner: Peter Blagojevic & Lex Venditti, 13567 Utopia Drive, Cedar Lake, Indiana  
Petitioner: Thomas Black, 1066 N Lakeview Drive, Lowell, Indiana  
Vicinity: 14424 Morse Street, Cedar Lake, Indiana  
Request: Petitioner is requesting a Special Exception/Use Variance from Zoning Ordinance No. 496, Title XIV – Section 2: Use Regulations, A: The following shall apply to the General Business (B-3) Zoning District as permitted uses: No. 28: Automobile sales and Automobile repair shops.

*This Special Exception/Special Use Variance is to allow a Motorcycle sales & repair shop in a Community (B-2) Zoning District.*

Attorney to Review Legals: Attorney Tim Kuiper stated the notices and Publications are in order for tonight's meeting. Attorney Kuiper stated that this item is a Special Use Exception, which requires approval from the Board of Zoning Appeals.

Petitioner's Response: Tom Black was present at tonight's meeting. Mr. Black stated that he wants to open a shop that will be to service motorcycles. Mr. Black stated he will only be repairing bikes and will not be selling motorcycles. Mr. Black stated he will not be storing bikes there, and there will be a time limit to pick up repaired bikes once they are finished. He will be storing some oil and a small amount of gas, but mostly it will be whatever is in the bikes themselves. Mr. Black stated his hours will be limited, as he understands he is in a residential area. Hours will most likely be 9:00-5:00, maybe 7:00 at the latest during the summer season.

Remonstrators: None.

Building Department's Comments: None.

Board's Discussion: Jeremy Kuiper asked how much work/employees there will be. Mr. Black responded that he will be the only employee as of right now. Jeremy Kuiper asked what kind of bikes will be worked on. Mr. Black stated that he will mainly work on Harley-Davidson motorcycles, as he is trained and certified for Harley. It was clarified that this shop is the prior location of GBY Motorsports, a similar type of shop, which also had a variance. This variance was only with the Petitioner, so Mr. Black had to apply for a variance as well. Discussion occurred about fire safety and inspections that need to be done. The Board stated that Mr. Black needs to make sure he is aware of noise ordinances and that he remains within them.

Board's Recommendation to the Town Council: Tim Kubiak moved to send a favorable recommendation to the Town Council for 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.

Jeff Bunge seconded. After a roll call vote, the motion carried 4-0. Eric Burnham was not present for voting.

**Correspondence:** None.

**Public Comment:** Randy Niemeyer of 13610 Ivy Street expressed his appreciation for the Board’s consideration for the fence matter at tonight’s meeting.

**Adjournment:** Meeting was adjourned at approximately 8:12 p.m.

**Press Session:** None

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Diane Cusack

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Tim Kubiak

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Eric Burnham

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Jeff Bunge, Vice Chairman

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Jeremy Kuiper, Chairman

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