

**Town of Cedar Lake – Board of Zoning Appeals
Public Meeting Minutes
May 10, 2012**

The Cedar Lake Board of Zoning Appeals held their Public Meeting on Thursday, May 10, 2012. The meeting was called to order at approximately 7:03 p.m. at the Cedar Lake Town Hall. Those Members present were: Tim Kubiak, Eric Burnham, Jeff Bunge, Vice Chairman, and Jeremy Kuiper, Chairman. Attorney Tim Kuiper, of Austgen, Kuiper & Associates, and Jenn Montgomery, Recording Secretary, were also present. Member Diane Cusack and Town Administrator Ian Nicolini were not present at tonight's meeting.

Minutes: Eric Burnham moved to approve the Minutes of the April 12, 2012 Public Meeting. Jeff Bunge seconded. After a voice vote, the motion carried unanimously.

Public Hearings:

Old Business:

1. Reich – Use Variance

Owner: Cedar Lake Ventures One, LLC, 1001 E Summit Street, Crown Point, IN
Petitioner: Robert Reich, 9309 W 143rd Place, Cedar Lake, IN
Vicinity: 13316 Lincoln Plaza, Cedar Lake, Indiana
Request: Petitioner is requesting a Use Variance 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 was properly continued at the last public meeting.

Petitioner's Response: Robert Reich stated that the space he had originally proposed is actually much larger than the building space he is in. Rather than a 2,000 square foot building, Mr. Reich is in a 1,000 square foot building. Originally, Mr. Reich stated he thought the space was twenty (20) feet wide; instead, he only has sixteen (16) feet. Mr. Reich presented a revised plan for the space. A waiting room would be at either end of the store, with a hallway connecting the two. There will be partition walls dividing the businesses, which will be about one (1) foot from the ceiling. There will be two (2) barber chairs in the front of the store and three (3) cubicles for tattooing in the back. Mr. Reich stated that the tattoo parlor will not be seen from the barber shop, the hallway or the waiting rooms, as it will completely walled off.

Remonstrators: None.

Building Department's Comments: None.

Board's Discussion: Tim Kubiak stated he prefers this layout much more than the previous plans that had been presented. However, State Code requires hallways to be a minimum of forty-eight (48) inches. Discussion occurred regarding the layout, and the Board agreed that it is much better, as the tattoo parlor is blocked off, so all customers are able to use the restroom without entering the tattoo parlor. Eric Burnham stated concerns of people using the rear entrance. Mr. Reich stated that customers can use either entrance for either business. Mr. Reich also stated that the parking in the rear of the building is going to have to be utilized once the new Strack

& Van Til store is opened. Eric Burnham stated that this would make sense, as there is not a lot of parking for the number of businesses that are in the plaza. Discussion occurred regarding hours of operation. Mr. Reich stated that the tattoo parlor will open around 1:00-2:00 p.m. and that hours will not be later than 10:00 p.m., and Sunday and Monday will most likely be by appointment only.

Board's Recommendation to the Town Council: Eric Burnham moved to send a favorable recommendation to the Town Council, contingent that hours of operations do not extend beyond 10:00 p.m., 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 4-0.

New 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, Cedar Lake, Indiana

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.

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

Petitioner's Response: Father John Kowalczyk stated the digital sign will be red and approximately two feet by eight feet (2'x8') in size. The sign will display temperature, time and messages. Father Kowalczyk stated that he received approval from the Town Council to temporarily use the sign during a special weekend event that was held at the church. The sign is now off, and will remain off, until final approval is given by the Town Council.

Remonstrators: None.

Building Department's Comments: None.

Board's Discussion: Tim Kubiak stated that he would like to put the standard restrictions on the sign, which include a minimum of six (6) messages, no flashing and no side to side scrolling.

Board's Recommendation to the Town Council: Tim Kubiak moved to send a favorable recommendation to the Town Council, contingent that messages will not flash, will not scroll side to side, and that messages remain for a minimum of six (6) seconds, 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. Boersma – Special Use Exception, Use Variance and Developmental Variance

Owner/Petitioner: John & Darlene Boersma, 2941 E Brunswick Road, Beecher, Illinois

Vicinity: 12828 Wicker Avenue, Cedar Lake, Indiana

Request: Petitioner is requesting a Special Use Exception from Zoning Ordinance No. 496, Title XIII – Community Business (B-2) Zoning District, Section 3: Special Use Exceptions: B. for Automobile service center; and Sales of New and Used Automobiles, but without a body repair shop.

Petitioner is requesting a Use Variance from Zoning Ordinance No. 496, Title XIII – Community Business (B-2) Zoning District for two (2) uses in a single building.

Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, 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: 1) On existing four (4) lane Federal or State highways a distance of sixty (60) feet.

Petitioner is requesting a Special Use Exception Variance to allow the operation of a automobile sales and repair shop. Petitioner is requesting a Use Variance to allow a secondary use of both automobile sales and an automobile repair shop. Petitioner is also requesting a Developmental Variance to allow parking within the required sixty foot (60') setback.

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

Petitioner's Response: John Boersma stated he would like to open an automotive sales and repair shop. There will only be one business, but sales and repair are considered two (2) different uses. Parking will be approximately twenty (20) feet off the property line.

Remonstrators: None.

Building Department's Comments: None.

Board's Discussion: Tim Kubiak stated that Mr. Boersma has been working with the Plan Commission to establish a one-lot subdivision and to rezone the property from R-2 Residential to B-2 Community Business. What Mr. Boersma wants to do is allowed in a B-3 Zoning District, but the Plan Commission preferred to rezone the property to the more restrictive B-2 District and apply for a variance. Mr. Boersma will also be going for site plan approval this month. Tim Kubiak asked how many cars will be on the lot for sale at any time. John Boersma stated no more than ten (10) cars will be for sale at a time.

Board's Decision – Developmental Variance: Tim Kubiak moved to approve the Developmental Variance to allow parking within the required sixty foot (60') setback, contingent that no more than ten (10) cars on the lot are for sale at any time, 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.

Board's Recommendation to the Town Council – Special Use Exception: Eric Burnham moved to send a favorable recommendation to the Town Council to allow the operation of an automobile sales and repair shop, 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:

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

Board's Recommendation to the Town Council – Use Variance: Eric Burnham moved to send a favorable recommendation to the Town Council to allow a secondary use of both automobile sales and an automobile repair shop, 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. View Outdoor Advertising – Developmental Variance

Owner: Kenneth Miskus, 925 Quinn Place, Dyer, Indiana
Petitioner: View Outdoor Advertising, LLC, 1000 E 80th Place, Suite 700N, Merrillville, Indiana
Vicinity: 9915 W 133rd Avenue, Cedar Lake, Indiana
Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XXII – Sign Regulations, Section 3: Signs in Business or Industrial Districts: 2. A. The height of a sign shall conform to the height requirements of the Zoning District in which it is located: 2. B-3: 30 feet.

Petitioner is requesting a Developmental Variance to allow a sign that is forty feet (40') in height.

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

Petitioner's Response: Matt Felder of View Outdoor Advertising, LLC stated that a building permit has already been obtained for the sign. However, the right-of-way line is farther back than the neighboring properties, so the sign would have to be farther back as well. Mr. Felder stated they are requesting a height variance in order for the sign to be seen. Mr. Felder provided exhibits to the Board showing sightlines from either direction on 133rd Avenue. Examples were provided showing what the sign might look like at a height of forty (40) feet. Since the sign will be farther back than neighboring signs, having a taller sign would provide a cleaner sightline. The actual size of the sign is within the allotted size. A three-hundred (300) square foot sign is allowed in this zoning district, and the proposed sign is 280 square feet. This purpose of the sign is for advertising. Mr. Felder stated that there have been some local businesses that have shown interest in advertising. However, all signs will be tasteful. Nothing explicit is permitted to be on the sign. The sign will be illuminated from the catwalk only.

Remonstrators: None.

Building Department's Comments: None.

Board's Discussion: Tim Kubiak stated he liked the visuals for a better understanding of the location of the sign and had no issue with it. Eric Burnham stated he has some issue with putting a billboard at that location. Discussion occurred regarding the location of the sign. The lot on which the sign will be placed is very narrow and between two (2) businesses. Jeff Bunge stated he has an issue with allowing a forty (40) foot tall billboard.

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 3-1, with Jeff Bunge voting against.

4. EJ Holdings – Developmental Variance

Owner/Petitioner: EJ Holdings, LLC, PO Box 35, Cedar Lake, Indiana

Vicinity: 13125 Polk 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, except: 1) Residential area not served by sidewalks may have front yard fences with a maximum height of forty-eight (48) inches; 2) A setback of six (6) feet from the front property line shall be required.

Petitioner is requesting a Developmental Variance to allow a six foot (6') fence in the front yard on the property line.

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

Petitioner's Response: John Dessauer stated that 131st Lane dead ends into the lake, and that they would like to just mimic the neighbor's fence. The area of 131st that runs along the property is unimproved. This area is not kept up and becomes an eyesore during the growing season. Pictures were provided for the Board.

Remonstrators: None.

Building Department's Comments: None.

Board's Discussion: Tim Kubiak stated that he has looked at this area and that 131st Lane is just a weed patch that goes to the lake, where drainage from the rest of the subdivision goes. The neighbor has the same kind of fence that is being requested.

Board's Decision: Eric Burnham 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.

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

5. Fata – Developmental Variance

Owner/Petitioner: Charles & Nancy Fata, 14706 B Carey Street, Cedar Lake, Indiana

Vicinity: 14706 B Carey Street, Cedar Lake, Indiana

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XXIII – Accessory Regulations, Section 1: General Accessory Regulations: 5) There shall be a minimum six (6) foot setback from any and all side and rear property lines and a minimum ten (10) foot separation or distance from all other buildings.

Petitioner is requesting a Developmental Variance to allow an accessory structure within the required ten foot (10') separation from the residential structure.

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

Petitioner's Response: Chuck Fata stated he wants to construct a shed. However, he cannot meet the required setbacks without going into the utility easement. If Mr. Fata put the shed on the easement line, he would still only be seven (7) feet from the home.

Remonstrators: None.

Building Department's Comments: None.

Board's Discussion: None.

Board's Decision: Tim Kubiak moved to grant the variance as requested, contingent that the shed sit on the fifteen (15) feet easement line, 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.

6. Priddy – Developmental Variance

Owner/Petitioner: Jim Priddy, 14324 Colfax Place, Cedar Lake, Indiana

Vicinity: 14324 Colfax Place, 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.

Petitioner is requesting a Developmental Variance to allow a deck within the required thirty foot (30') front yard setback.

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

Petitioner's Response: Jim Priddy stated he wants to add a deck to the rear of his house. However, the rear of his house faces a dedicated and unimproved street. This means that his home has two (2) front yards. Because of this, Mr. Priddy would not meet the required front yard setback. The proposed deck will be fourteen feet by nineteen feet (14'x19').

Remonstrators: None.

Building Department's Comments: None.

Board's Discussion: Discussion occurred regarding the size of the deck and that it seems reasonable. Additionally, the house is already within the front yard setback. There are no plans regarding the unimproved road being developed.

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 4-0.

7. Sechen – Developmental Variance

Owner/Petitioner: William Sechen, 7506 W 134th Place, Cedar Lake, Indiana

Vicinity: 7506 W 134th Place, Cedar Lake, Indiana

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title VIII – Residential (R-2) Zoning District: Section 3: Height Regulations: The maximum height of buildings and other structures erected or enlarged in this Zoning District shall be two (2) stories, not to exceed thirty (30) feet at its peak; **and** 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** C. Side Yard: On each lot, except as otherwise specified, there shall be two (2) side yards, each having a width of not less than eight (8) feet; F. Corner Lots: The side yard setback shall be the same as the front yard setback; **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** Section 5: Building Size: B. Attached Garages: Attached garages on all new home permits shall have a minimum four hundred (400) square feet. Maximum attached garage size shall be eight hundred sixty-four (864) square feet; **and** Title XX – Supplementary Zoning District Regulations, Section 23: General Area Provisions: a.2) Recorded Lots less than Minimum Area: Lots of record at the time of the enactment of this Zoning Ordinance, as amended from time to time, which have less than the minimum area requirements for Residential Zoning Districts, may nevertheless be used for any use permitted therein, except that for dwellings the lot must have a width of at least fifty (50) feet and an area of at least five thousand (5,000) square feet.

Petitioner is requesting a Developmental Variance to allow a residential structure that is three (3) above-ground stories, exceeds the thirty foot (30') height restriction, is within the required front and side yard setbacks, is less than fifty feet (50') at the building line, covers more than the allowed twenty-five percent (25%) coverage, and has an attached garage which exceeds the permitted eight hundred sixty-four (864) square feet.

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

Petitioner's Response: Bill Sechen stated he wants to tear down the existing home on this property and rebuild a new structure that will better fit his family's needs. The house will front on 134th Place, and is also on the corner of Webster Street. The lot is forty-seven (47) feet wide, which is just under the requirement of fifty (50) feet, and is approximately 177 feet long. Because of the limitations of the lot, Mr. Sechen stated he must build his house up, rather than out. The first story will consist of the garage and the in-laws' quarters, the second and third stories will consist of the bedrooms, living room, kitchen, office, etc.

Remonstrators: Frank Brongiel of 7504 W 134th Place stated he lives right next door to this property and has no issues with the proposed home. Mr. Brongiel stated he thinks the new home will improve the neighborhood. **-FOR**

Building Department's Comments: None.

Board's Discussion: Discussion occurred regarding the total lot coverage. It will be approximately thirty-three percent (33%). Discussion occurred regarding the overall height of the home, which will be thirty-eight (38) feet. Discussion occurred regarding other homes in town that have been built higher. The only difference is that other homes are that tall on one side of the home with walkout basements, whereas Mr. Sechen must start from the ground level. Jeremy Kuiper asked if the concrete in the yard will be porous to allow for drainage. Mr. Sechen stated it will either be stamped or he will use pavers, and that drainage will fall toward the lake. Mr. Sechen also stated there will be flower beds along the yard. Discussion occurred regarding the inability to construct any accessory structures. There is an existing boat house that will remain, as well as the amount of storage space in the large garage.

Board's Decision: Tim Kubiak moved to approve the variance as requested, contingent that no other accessory structures may be built, 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 3-1, with Jeff Bunge voting against.

8. McDonough – Developmental Variance

Owner/Petitioner: Brian McDonough, 12705 Morning Dove Drive, Cedar Lake, Indiana
Vicinity: 12705 Morning Dove Drive, Cedar Lake, Indiana

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, 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 property line, or building line, or at any other location where a “structure” is prohibited under the other terms of this Zoning Ordinance, as amended from time to time; **and** Title XXI – Fence Regulations, Section 1, A. Fences shall be allowed in any side and rear yard subject to the following: 1. Maximum height shall not exceed six (6) feet.

*Petitioner is requesting a Developmental Variance to allow a pool and deck within the required ten foot (10') setback from the side yard and residential structure **and** to allow a fence exceeding the six foot (6') height allowance.*

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

Petitioner's Response: Brian McDonough stated he would like to install a pool and a deck in the rear of his property. Mr. McDonough also is requesting to install a fence, which would require a height variance. In order to do this, he would need a variance, as his property slopes downward. There are also trees in the yard, which Mr. McDonough does not want to remove. The pool will be approximately four (4) feet from the property line, and the deck will be approximately two (2) feet from the property line. Much of the deck will be at ground level because of the slope of the yard.

Remonstrators: None.

Building Department's Comments: None.

Board's Discussion: Tim Kubiak inquired about the height variance for the fence on top of the deck. Mr. McDonough stated that part of the pool will be buried because of the hill, but when you add the height of deck to the fence, it might be higher than six feet (6'). The fence will be wrought iron, not privacy. Discussion occurred regarding issues with the limited space between the deck and the property line. Discussion occurred whether the pool could be moved away from the property line, approximately three (3) feet. Mr. McDonough stated the deck will probably be done with pavers rather than vinyl decking, as it is more affordable. If pavers are used, a variance would not be needed, as it would not be considered a deck. Tim Kubiak stated he would like to see the pool at least seven (7) feet from the property line. Mr. McDonough stated he can't move it away from the property line, as he will then be too close to the house. The Board explained that the deck attached to the house does not count as part of the house and should not be included when calculating the setback. If Mr. McDonough moves the pool ten (10) feet away from the property line and uses pavers, he will still meet the setback from the house as well. By doing this, Mr. McDonough will only need a variance for the height of the fence. The Board agreed that since the fence is not privacy, but wrought iron, it is acceptable that the fence be taller than six (6) feet.

Board's Decision: Tim Kubiak moved to grant the variance for the fence as requested, contingent that the fence appears as it was proposed tonight, 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 4-0.

9. Olson – Use Variance

Owner: Brian Kubal, PO Box 1161, Cedar Lake, Indiana
 Petitioner: Cindy Olson, 12916 Hilltop, Cedar Lake, Indiana
 Vicinity: 7214 W 132nd Avenue, Cedar Lake, Indiana
 Request: Petitioner is requesting a Use Variance from Zoning Ordinance No. 496, Title XIII – Community Business (B-2) Zoning District:

Petitioner is requesting a Use Variance to allow the operation of a massage therapy salon.

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

Petitioner's Response: Cindy Olson stated she would like to open a massage therapy salon. There will be three (3) rooms that will be used for massage. There will be two (2) male and one (1) female therapist, who would sublet spaces from Ms. Olson. This is typical of massage therapy salons. Ms. Olson stated it will be strictly massage therapy and that she will run a strict and professional business. The location of the business will be located in the same plaza as Zip Food Store. Tack walls will be installed to separate rooms. The walls will be permanent, but will be easily removable, as the space Ms. Olson is renting must be returned to its original state if and when she vacates.

Remonstrators: None.

Building Department's Comments: None.

Board's Discussion: The Board reviewed the layout of the building and where each room will be located. Jeff Bunge inquired about hours of operation. Cindy Olson stated she will be open from 10:00 a.m. to 7:00 p.m., anything after will be by appointment only, and Monday and Sunday will be by appointment only.

Board's Decision: Eric Burnham moved to send a favorable recommendation to the Town Council, contingent that hours of operation will not extend beyond 9:00 p.m., 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.

10. Nowdomski – Use Variance

Owner: Morris Heldt & Mary Nigh Trust, 10720 W 133rd Avenue, Cedar Lake, IN
Petitioner: Edward & Mary Nowdomski, 13705 Birch Street, 14324 Colfax Place,
Cedar Lake, Indiana
Vicinity: 10712 W 133rd Avenue, Cedar Lake, Indiana
Request: Petitioner is requesting a Special Use Variance from Zoning Ordinance No. 496, Title XXII, Section 3: Special Use Exceptions: The following uses may be permitted, provided they are approved by the Board of Zoning Appeals and are subject to any conditions placed upon them by the Board of Zoning Appeals: A. Any use permitted in a Community Business (B-2) Zoning District.

Petitioner is requesting a Special Use Variance to allow a bicycle repair and sales store in a Neighborhood Business B-1 Zoning District.

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

Petitioner's Response: Mary Jane and Ed Nowdomski stated they are seeking approval to operate a bicycle repair and sales store in a building that is not zoned for this type of store. The bike shop has been operating in Cedar Lake, but they have had to find a new unit to rent.

Remonstrators: None.

Building Department's Comments: None.

Board's Discussion: Eric Burnham confirmed that the bike shop used to be on the east side of the lake, by the Dairy Queen, and is now proposing to operate on 133rd Avenue, in the former Custom Top and Christian Book Store. Jeff Bunge inquired about parking at the new location. Ed Nowdomski stated there are about ten (10) spaces available to park. Mr. Nowdomski stated he is not sure what they will do about parking once 133rd Avenue is expanded. Jeremy Kuiper asked how many employees will be working in the store. Mr. Nowdomski stated he is the only employee.

Board's Decision: Eric Burnham moved to send a favorable recommendation to the Town Council, contingent that hours of operation do not extend beyond 9:00 p.m., 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.

Public Comment: None.

Adjournment: Meeting was adjourned at approximately 8:49 p.m.

Press Session: None

Diane Cusack

Tim Kubiak

Eric Burnham

Jeff Bunge, Vice Chairman

Jeremy Kuiper, Chairman

Attest: _____
Jenn Montgomery, Recording Secretary