

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

The Cedar Lake Board of Zoning Appeals held their Public Meeting on Thursday, July 12, 2012. The meeting was called to order at approximately 7:02 p.m. at the Cedar Lake Town Hall. Those Members present were: Tim Kubiak, Eric Burnham, Diane Cusack, Jeff Bunge, Vice Chairman, and Jeremy Kuiper, Chairman. Attorney Tim Kuiper, of Austgen, Kuiper & Associates, Building Commissioner Jack Slager, and Jenn Montgomery, Recording Secretary, were also present.

**Minutes:** Tim Kubiak moved to approve the minutes of the June 14, 2012 public meeting, with corrections. Diane Cusack seconded. After a voice vote, the motion carried unanimously.

**Public Hearings:**

**New Business:**

**1. Carey – Use Variance**

Owner: David & Debra Carey, 7205 W 145<sup>th</sup> Avenue, Cedar Lake, Indiana  
Petitioner: Brian Kubal, PO Box 1161, Cedar Lake, Indiana  
Vicinity: 13118 & 13134 Lake Shore Drive, Cedar Lake, Indiana  
Request: Petitioner is requesting a Use Variance from Zoning Ordinance No. 496, Title XIII – Community Business (B-2) Zoning District, Section 2: Use Regulations: A. The following shall apply to the Community Business (B-2) Zoning District, as permitted uses: 52) Restaurants, taverns or other places serving food or beverage, when no entertainment or dancing is provided; **and**  
Title XIII – Community Business (B-2) Zoning District, Section 2: Use Regulations.

*Petitioner is requesting a Use Variance to allow outdoor dining with alcohol sales, alcohol consumption and live entertainment in a Community Business (B-2) Zoning District. Petitioner is also requesting a Use Variance to allow outdoor storage and rental of kayaks out of a separate unit of the building.*

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

**Petitioner's Comments:** David Carey, owner of Sandbar Grill, stated that the business is currently having live entertainment and that he would like to add kayak and paddleboat rentals out of the other unit in the building. Mr. Carey stated he would like to rent this equipment out because there is nowhere in Town where residents and/or visitors can rent this equipment. The rentals would be separate from the restaurant and will be its own business. Mr. Carey stated they will not rent kayaks or paddleboats to customers who have been drinking. Mr. Carey stated they will take much discretion in who will be able to rent their equipment. Mr. Carey stated that he does not intend to begin renting out paddleboats and kayaks until 2013. Since he is going for the variance for the entertainment, he added these rentals so they would have time to plan and figure out the best way to operate the rental business.

**Remonstrators:** None.

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

**Board's Discussion:** Tim Kubiak asked where the equipment will be stored for the kayak and paddleboat rentals. Mr. Carey stated there is a fenced in area on the south side of the building. The equipment will be stored there. Tim Kubiak asked how many kayaks and paddleboats they intend to rent out. Mr. Carey stated they will probably rent out approximately four to five (4-5) of each. The equipment would be kept outside during the day, along the water line, but then be put up each night at closing. Diane Cusack inquired if approval is needed from DNR to use the boats. Mr. Carey stated they will need to be licensed, just like any other boat. Discussion occurred regarding insurance. Mr. Carey stated that the property owners would be covered on his insurance, and that a liability waiver that hold them harmless if something should happen. A memo was submitted by recording secretary Jenn Montgomery. The memo stated that discussion occurred with the property owner, Brian Kubal, and that, at this time, he was not in favor of allowing the kayak rentals. Jenn Montgomery stated she spoke with the owners and that although they are not in favor at this time, they would be ok with an approval with the contingency that written consent be required from the property owner to Mr. Carey. David Carey stated he has spoken with the Kubals regarding their concerns and liability was a big issue. By adding them to the insurance and including that waiver, they will be covered. Tim Kubiak stated he would like to put time restrictions on the outdoor entertainment. Mr. Carey stated the restaurant closes during the week at 10:00 p.m. and 11:00 p.m. on



the weekends, so entertainment will never go past 10:30 p.m. The only nights the restaurant will have entertainment will be Friday and Saturday, 7:00 – 10:00 p.m. Eric Burnham asked what the hours would be for the equipment rentals. Mr. Carey stated it would probably end around 7:00 p.m. or dusk, whichever is later, but rentals will not be allowed after dark. Eric Burnham asked how the rental business will be accessed from and where the equipment will be during the day. Mr. Carey stated the entrance would be separate from the restaurant entrance, and that he was considering possibly putting in a small dock to the north of the existing dock to store the rentals during the day, as to keep the equipment out of the way of the boaters. Mr. Carey stated he wants to involve the Kubals as well, and wants to make sure he is keeping everyone happy, including the adjoining properties. Tim Kubiak stated he has no problem with the equipment rentals, but would be more comfortable if there was a more solid plan for storage, both during business hours and when they are closed. Tim Kubiak stated he wants more definite answers before he approves it. David Carey stated that the kayaks and paddleboats will be stored in the fenced in area. Mr. Kubal had stated concerns of launching the equipment from the beach area because the area is so close to the condos, so Mr. Carey stated he is now intending to launch the equipment from the north side of the existing dock. This area is separate from the outdoor dining area.

**Board's Decision – Outdoor Entertainment:** Tim Kubiak moved to send a favorable recommendation to the Town Council to allow outdoor dining with alcohol sales, alcohol consumption and live entertainment, contingent that entertainment does not extend beyond 10:00 p.m. on weekdays and 11:00 p.m. on weekends, 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 5-0.

**Board's Decision – Kayak and Paddleboat Rental:** Tim Kubiak moved to send a favorable recommendation to the Town Council to allow outdoor storage and rentals of kayaks and paddleboats from a separate unit of the building, contingent that the equipment is stored within the fenced in area, rentals are launched on the north side of the pier area and that a limit of ten (10) kayaks and six (6) paddleboats be allowed, to include the Findings of Fact:

- The approval will not be injurious to the public health, safety, morals and general welfare of the community;
- The use and value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner;
- The need for the Variance arises from some condition peculiar to the property involved;
- The strict application of the terms of the Zoning Ordinance, as amended from time to time, will constitute an unnecessary hardship if applied to the property for which the Variance is sought; and
- The approval does not interfere substantially with the Comprehensive Master Plan of the Town.

Diane Cusack seconded. After a roll call vote, the motion carried 5-0.

## **2. Thompson – Developmental Variance**

Owner/Petitioner: Steve & Linda Thompson, 7318 W 143<sup>rd</sup> Lane, Cedar Lake, Indiana

Vicinity: 7318 W 143<sup>rd</sup> Lane, 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: D. Rear Yard: there shall be a rear yard on not less than twenty-five percent (25%) of the depth of the lot; **and**  
Title VIII – Residential (R-2) Zoning District, Section 5: Building Size: B. Attached Garages: Maximum attached garage size shall be eight hundred sixty-four (864) square feet; **and**



Title XXIII – Accessory Regulations: Section 1: General Accessory Regulations: A.2) Accessory Buildings shall only be allowed according to the following schedule: Lot Size of 10,000-15,000 SF – Maximum Accessory Size of 800 square feet – Height 14’; **and**  
Title XXIII – Accessory Regulations: Section 1: General Accessory Regulations: A.4) No accessory buildings shall be allowed in the front yard of any residential lot.

*Petitioner is requesting a Developmental Variance to allow a new home with a rear yard setback within the required twenty-one (21) feet; **and** to allow an attached garage that exceeds the allowed eight hundred sixty-four (864) square feet; **and** to allow an accessory detached garage in the front yard of a through lot that exceeds the allowed eight hundred (800) square feet. The proposed home will have a rear yard setback of less than twenty (20) feet. The proposed attached garage will be approximately nine hundred (900) square feet. The proposed detached garage will be approximately nine hundred sixty (960) square feet in the front yard of a through lot.*

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

Petitioner’s Response: Steve and Linda Thompson stated they are proposing to demolish their existing house and build a new house. They are requesting extra storage space and an additional detached garage for storage. Mr. Thompson stated they have vehicles, golf carts, lawn equipment, and trailers, among other things, that they need to store. Currently, much of this equipment is being paid for in storage and in a garage at their rental unit. However, they are selling their rental house, so they will lose that storage and would rather not pay for more storage units. Mr. Thompson stated they would like to have a basement, but drainage in the area does not allow for a basement to be constructed. The detach garage will be located behind the home and will face 143<sup>rd</sup> Place, while the home will face 143<sup>rd</sup> Lane. The second garage will be used only for storage. Mr. Thompson stated the reason for the rear yard setback is so that he is able to maintain the required front yard setback of thirty feet (30’).

Remonstrators: None.

Building Department’s Comments: Jack Slager asked if the two (2) driveways will be connected. Mr. Thompson stated that no, they will not need to be connected, since the second garage is just for storage. Jack Slager confirmed that everything on the lot will be demolished: the house, garage and shed. Mr. Thompson stated that yes, everything will be demolished and everything will be new. The part of the house that will be nineteen (19) feet from the rear property line will actually back up to a lot that the Thompsons currently own. Jack Slager stated concerns about the size of the detached garage and that he’d prefer a contingency stating that the structure may not be converted to a living space.

Board’s Discussion: Eric Burnham asked where the rental property is located; on Lot 1. Discussion occurred regarding the unimproved road to the west. That road was previously vacated, part of which was deeded to the Thompsons. Tim Kubiak asked if the attached garage will be larger as well. Mr. Thompson explained that he is asking for an additional twelve (12) feet. Jeremy Kuiper asked why there is a thirty-one (31) foot setback, rather than thirty (30) feet. Mr. Thompson stated he isn’t sure if he will need a step from the porch and wanted to allow room for it. The Board stated that a step wouldn’t count, and that they would rather see a thirty (30) foot setback in the front and a twenty (20) foot setback in the rear.

Board’s Decision: Tim Kubiak moved to grant the variances as requested, to include that the proposed home be moved up to the thirty (30) foot setback to allow for a twenty (20) foot setback in the rear, and contingent that the lot may not be subdivided and the detached accessory structure may not be converted into living space, 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.



### 3. Hering – Developmental Variance

Owner/Petitioner: Ron & Linda Hering, 14805 A Drummond Street, Cedar Lake, Indiana  
Vicinity: 14805 A Drummond 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: D. Rear Yard: there shall be a rear yard on not less than twenty-five percent (25%) of the depth of the lot.

*Petitioner is requesting a Developmental Variance to allow a deck within the required rear yard setback of 31.25 feet. The rear yard setback for the proposed deck will be approximately twenty-three (23) feet.*

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

Petitioner's Response: Ron and Linda Hering stated they currently have a concrete patio on the rear of their home. Due to medical and safety reasons, they would like to construct a deck so they will not have to step down to go outside.

Remonstrators: Barb Britton of 14805 B Drummond owns the other half of the duplex. Ms. Britton stated she stated she has no issues with and is for this variance request.

Building Department's Comments: Jack Slager asked if the fence on the survey is existing or proposed; the fence and gates indicated on the survey are already existing.

Board's Discussion: Tim Kubiak asked if the deck will basically cover the concrete patio. The deck will extend out as far as the patio, approximately twelve feet (12') and then will extend along the house approximately ten (10) additional feet. Discussion occurred regarding this subdivision, along with others, that force homeowners to apply for this kind of variance due to setback restrictions.

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.

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

**Public Comment:** Bob Carnahan of 12850 Fairbanks Street stated that Illiana will be holding a public hearing on August 1, 2012 from 5:00 p.m. – 8:00 p.m. at Lowell Middle School. Mr. Carnahan also commented that he remembers several years ago there was a place on the lake where you could rent put-put boats and is in favor of the kayak rental business proposed tonight.

**Adjournment:** Meeting was adjourned at approximately 7:23 p.m.

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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