

Town of Cedar Lake – Board of Zoning Appeals
Public Meeting Minutes
September 13, 2012

The Cedar Lake Board of Zoning Appeals held their Public Meeting on Thursday, September 13, 2012. The meeting was called to order at approximately 7:03 p.m. at the Cedar Lake Town Hall. Those Members present were: Diane Cusack, Tim Kubiak and Jeff Bunge, Vice Chairman. Attorney Tim Kuiper, of Austgen, Kuiper & Associates, Building Commissioner Jack Slager, and Jenn Montgomery, Recording Secretary, were also present. Member Eric Burnham and Chairman Jeremy Kuiper were not present at tonight's meeting.

Jeff Bunge stated that because there are only three (3) members present at tonight's meeting, any approval will need a unanimous vote. Mr. Bunge stated that any Petitioner present tonight may have the option to defer their item to a later meeting.

Minutes: Tim Kubiak moved to approve the minutes of the July 12, 2012 Public Meeting. Diane Cusack seconded. After a voice vote, the motion carried unanimously.

Public Hearings:

Old Business:

1. Dolder – Developmental Variance

Owner/Petitioner: Michael & Marilyn Dolder, 13 Hawthorne Place, Crown Point, Indiana

Vicinity: 13900 Huseman 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** Title VIII – Residential (R-2) Zoning District, Section 4: Area, Width and Yard Regulations: A. Minimum lot area and width: a lot area of not less than eight thousand (8000) square feet for a single-family dwelling, and a lot width of not less than eight (80) feet at the building line shall be provided; **and** 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 line as follows: 4) On all other streets, a distance of thirty (30) feet; **and** 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 new home with a proposed height of thirty-two (32) feet at the peak, to allow a lot width of approximately ten (10) feet, to allow a front yard setback of approximately twenty (20) feet and to allow a fence along the front yard property line.

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

Petitioner's Comments: Attorney Jim Wieser was present tonight representing Michael and Marilyn Dolder. Attorney Wieser stated that the request was for four (4) variances. In 2010, there was a vacation of some easements on the Dolder's property. After those easements were vacated, Mr. Dolder began to pursue the possibility of building his permanent home on this lot. A meeting was held in 2011 with Town officials in order to find out what needed to be done to build on the lot. After reviewing the Zoning Ordinance, it was discovered that the eighty (80) foot width is actually at the building line, not the actual lot line. Because of this, Attorney Wieser formally withdrew his request for a developmental variance to allow a lot width of approximately ten (10) feet, as the survey shows that, at the building line, the eighty (80) foot requirement has been met. Attorney Wieser stated that Mr. Dolder has tried to move the proposed home as far north as he can in order to try to prevent the view of the lake from being blocked for his neighbors to the south. This is the reason for the front yard setback variance request. Attorney Wieser also stated that a home could be built on this lot without having to apply for any variances whatsoever, but that would not be in the best interest of the neighbors. Attorney Wieser stated that the height variance is for thirty-two (32) feet at the peak. This variance is only asking for two (2) feet from what is currently allowed. It does not seem that this will have any negative impact on anyone. There is currently a fence along the northern property line. Mr. Dolder would like to replace this fence, and since this property line will now become the front yard, a variance would be needed. Attorney Wieser also stated that the design of the home has the lowest elevations on the south side of the home. This was done in order to try to reduce the impact of the

new home on the neighbors. Attorney Wieser addressed concerns regarding the ability for emergency vehicles to access the property, as the actual entrance to the property is only approximately thirteen (13) feet wide. Correspondence was received from Assistant Fire Chief Nick Mager, who stated that the width of 139th Avenue needs to be maintained with a height clearance of thirteen (13) feet. Mr. Mager also stated that where 139th Avenue merges to the proposed driveway, a turning radius and driveway width needs to be engineered to maintain a fire truck with a wheelbase of twenty (20) feet. Attorney Wieser stated that there is ample room to achieve this requirement. The road will be improved past the property entrance, and this will be done at Mr. Dolder's expense. Mike Dolder stated he has owned this property for eleven (11) years. Mr. Dolder stated that his kids are grown and moving away, and has been looking forward to building on this site. The existing home has been remodeled and updated since its purchase. Originally, Mr. Dolder stated his intention was to relocate the current home to the lakeside lot. Plans and pictures were provided to the Board to show what the original plan was. A seawall was also constructed along the lake when the property was purchased. With the original plan, the house was located toward the southern end of the property. After multiple discussions, it was decided that a new home would be constructed with an entrance off 139th Avenue and located to the north end of the property in order to have the least impact on the neighbors. Mr. Dolder addressed residents' concerns about safety in the area. If this is approved, Mr. Dolder stated he could potentially have construction finished before the next warm weather season, which would prevent any safety hazards for children, as the beach area would not be utilized during the winter months.

Remonstrators:

Against:

Ken Wilkening, 13853 Huseman Street; Mr. Wilkening is the president of the homeowner's association and stated one of his responsibilities is to watch out for the safety of the residents. If this variance is approved, it will create a hazard for the residents of the subdivision who use the lakefront. Mr. Wilkening stated that where the road currently ends, there is a significant downward slope toward the beach. If the road is improved, vehicular traffic will increase all the way to the beach, causing safety concerns for those at the lakefront. Mr. Wilkening also stated concerns regarding drainage and erosion at the bottom of the hill and inquired if there needs to be a stormwater control plan in place. Mr. Wilkening stated concerns of what will be done with snow removal, as it cannot be pushed onto private property. Mr. Wilkening also inquired if the existing sewer has been located on the property.

Karen Kennedy, 13915 Lauerman; Ms. Kennedy stated that she also bought a home and remodeled it in this area. Ms. Kennedy stated that she has lake access rights, which she received when she bought the home. Ms. Kennedy asked if, with this new home, she will have to get permission from Mr. Dolder in order to gain access to the lake. Ms. Kennedy also stated that she feels that residents won't be able to enjoy the lakefront if this home is built. Attorney Tim Kuiper informed Ms. Kennedy stated that nothing is changing with the lakefront beach, but that everything Mr. Dolder is applying for is to the south of the homeowners' association's property, on a parcel of land that Mr. Dolder owns. Attorney Kuiper also stated that there is already an existing fence, and that Mr. Dolder simply wants to replace it.

Becky Davis, 8504 W 139th Avenue; Ms. Davis provided pictures to the Board that shows the access to the lake. The pictures showed where the road currently ends and clarified where Mr. Dolder intends to improve it. Ms. Davis stated concerns regarding safety of the many people who utilize the area, especially the children.

Phil Rietveld, 13920 Huseman Place; Mr. Rietveld was accompanied by Nancy Frigo, a realtor who has worked in the field for approximately twenty (20) years in Northwest Indiana. Mr. Rietveld stated he will lose two-thirds of his lake view. Mr. Rietveld also stated that the Town Council recently approved the 2012 Comprehensive Master Plan Update, which mentions plans to preserve the town's older lakefront neighborhoods and lakefront views. Mr. Rietveld stated he would prefer to see an addition added to his existing home, rather than take away the lake view from the neighbors. Nancy Frigo stated that Mr. Rietveld had contacted with concerns about the proposed homes. Ms. Frigo discussed the impact this home would have on the adjacent areas. A pamphlet was provided to the Board containing pictures of the surrounding areas and the location of the proposed home. Ms. Frigo stated that homes are not typically built on outlots, as is being proposed here, especially if the outlot does not conform to the current requirements of the Town. Ms. Frigo discussed concerns regarding safety and the ability of a larger fire truck to access the property. Concerns were also stated regarding the proximity of the home to the building line, but the proximity of the home to the water. Ms. Frigo gave an example of another home that is for sale near this property that was blocked from the

lake by a larger home some years ago. Ms. Frigo stated that this is one (1) reason the home has not sold because it has lost its view of the lake. Ms. Frigo stated that if this home is built, it would definitely negatively impact the value of the surrounding homes, as much of the lake view would be lost. Ms. Frigo also stated that it is very difficult to find a home with a lake view in this area, and that buyers are more willing to pay a higher price if a view is available. With this home, many homeowners' views will be obstructed and their property values decreased. Mr. Rietveld added that when he brings people to Cedar Lake and takes them on tours on the lake, his guests consistently compliment the lakefront homes that are set farther back and have large yards between the homes and lakes.

Betty Becker, 13863 Huseman Street and **Rick Bonesteel**, 4026 Walnut Hill Circle, Crown Point; Ms. Becker stated she does not live on the lake, but is one (1) lot away. Ms. Becker's son, Rick Bonesteel, stated his mother has lived here since 1954. Pictures were provided showing the view from Ms. Becker's home. By moving the proposed home to the north to decrease the impact on the southern neighbors, it negatively impacts the property owners to the north, including Ms. Becker. Concerns were stated regarding Ms. Becker losing most, if not all, of her view of the lake.

Greg Schafer, 13913 Huseman Street; Mr. Schafer stated his home has been in his family for over seventy (70) years. Mr. Schafer stated he is a licensed builder in Indiana, Illinois and California and a licensed realtor in Indiana, Illinois and is sitting for his license in Florida soon. Mr. Schafer stated he has been an expert witness in both State and Federal courts in both areas of construction and real estate, and considers himself to be an expert in the subject. Mr. Schafer provided exhibits to the Board. Exhibits 1 and 2 showed the view from Mr. Schafer's property. Exhibit 3 was a photo showing a real estate sign with advertising for "lake view," and that stated that lake view is a very important selling aspect. Mr. Schafer provided Exhibit 4, an MLS listing, which showed that "lake view" is an option that may be advertised when selling a property. Exhibit 5 showed the MLS listing of Mr. Dolder's property when it was sold in 2001. The listing showed the asking price, as well as the selling price. Mr. Schafer read the description that discussed the lake view and frontage. Mr. Schafer stated that by building a home on this lot, his own lake view is being taken away, at least a good portion of it. Mr. Schafer stated that when this property was sold, it was not sold as a lot to be built on; rather, it was sold as part of the existing home. Mr. Schafer discussed concerns about safety in the area, especially since the beach area that is provided has shrunk significantly over the last several decades. Concerns were discussed regarding the increased traffic that will now go all the way to the beach. Mr. Schafer stated that he never received any type of notice for this variance application and that he was only informed by the homeowners' association president, Mr. Wilkening. Attorney Tim Kuiper stated that the notices were in order for this meeting. Notices are only required to be mailed to adjacent property owners, not to anyone within a certain distance. Attorney Kuiper also stated that this hearing was also advertised in the newspaper for last month's hearing. However, because the notices had not been sent out in time, the hearing was continued.

Shirley Kennedy, 13915 Huseman Street; Ms. Kennedy stated concerns of a negative impact on surrounding property values with the construction of the proposed home. Ms. Kennedy also stated that the proposed home doesn't fit in with the existing developments in the area.

Lynn Conroy, 13908 Huseman Street; Ms. Conroy lives next door to Mr. and Mrs. Dolder and stated her home has been in her family for several generations. Ms. Conroy stated concerns regarding safety and the inability to see children at the beach, as the proposed home would block her view. Ms. Conroy stated that when the large home to the south of the property in question was being proposed, Mr. Dolder stated opposition to the home because it would block the view of the lake and that it was fenced in, etc. and that the home was an eyesore. Ms. Conroy revisited her concerns regarding safety, as people who are not from the area may not know the road ends so abruptly or that the area is a commonplace for children to play. If the road is improved, this will only increase that danger.

Antoinette Lejeune, 13905 Huseman Street; Ms. Lejeune lives right behind Mr. and Mrs. Dolder and stated that she owns four (4) lots. Ms. Lejeune stated an assessor came out to her property and she was informed that her property will be devalued by twenty percent (20%) if the proposed home is built. Ms. Lejeune stated she is working class and only owns her one (1) home, which is her only investment and that she could not afford to lose twenty percent (20%) of her value.

George George, 13843 Huseman Street; Mr. George stated he concurs with all the remonstrators that have spoken tonight.

Paula Reno on behalf of Larry Coffin, 13929 Huseman Street; Ms. Reno is a real estate agent for Astro Realty and stated concerns regarding holiday traffic in the area. Ms. Reno stated that she frequents this area during the summer holidays and the large amount of traffic that goes through the area. This development could create a major safety concern for the people who use the beach.

Paul Steininger, 13848 Huseman Street; Mr. Steininger stated concurrence with all the issues that have been brought up so far. Mr. Steininger stated he is an architect and discussed how important aesthetics are and stated concerns about his view being diminished. Mr. Steininger stated concerns regarding drainage issues in the area and the effect the new home would have on it, and questioned if any type of drainage assessment needs to be done.

Lynn Conroy, 13908 Huseman Street; Ms. Conroy asked why the survey shows thirteen (13) feet of access, when only ten (10) feet was vacated in 2010. Attorney Tim Kuiper stated that the survey that was done found stakes from previous surveys that shows thirteen (13) feet at the property line. Ms. Conroy stated that she was also supposed to receive five (5) feet of the vacated walkway, which the survey does not show. This needs to be corrected. Attorney Kuiper stated that the width of the lot does not matter, as Mr. Dolder owns the entirety of the lot. However, if the variance is granted, Mr. Dolder will have to comply with the recommendation from the Fire Department and any contingencies placed by the Board of Zoning Appeals.

Ken Wilkening, 13853 Huseman Street; Mr. Wilkening inquired about the location of the NIPSCO light pole and where it would be moved. After speaking with an engineer from NIPSCO, Mr. Wilkening was informed that the most logical place to move the pole would be across the street, to the property which Mr. Wilkening owns.

Petitioner's Response: Attorney Jim Wieser responded to some of the concerns addressed by the remonstrators. Attorney Wieser stated that the sanitary sewer has been located, and that, at one point, the sewer does go outside the easement, but that no construction is planned in that area. The sewer will not be affected by the construction of the proposed home. Attorney Wieser clarified that a house will be built on this lot, regardless of whether or not these variances are granted. A home could be applied for without any variances, but that these variances are being requested in order to minimize the negative impact on the property owner's surrounding neighbors. Attorney Wieser stated that there is already a road platted that goes to the lot where Mr. Dolder wants to build his home. Mr. Dolder is simply planning to improve the road so that he may access his property. The road will not be improved all the way to the lake, but only to Mr. Dolder's access, which is approximately eighty (80) feet. Attorney Wieser stated that safety concerns are always legitimate, but that improving this little portion of road will not necessarily create any more safety hazard than what already exists in the area. Attorney Wieser expressed offense and on behalf of Mr. Dolder regarding comments made implying that the petitioner holds special relationships with Board members or that this process is not being done appropriately. Attorney Wieser stated that he and his client have followed the process and the rules and have done everything that every other petitioner present tonight has had to do. Attorney Wieser expressed hope that the variances being applied for will be approved, but that a home will be built on this lot regardless of the outcome of the Board's decision.

Building Department's Comments: Jack Slager stated he has visited the site. Mr. Slager confirmed that the sanitary sewer has been located as of yesterday. Mr. Slager stated concerns of seeing conflicting surveys showing one (1) lot versus multiple lots. Mr. Slager stated he would prefer to see a one (1) to two (2) lot subdivision established, mainly to clean up the legal descriptions and to clarify where exactly the lot lines are for the existing and proposed homes. Jack Slager addressed the issue of the public way vacation along the west side of the outlot. According to state statute, the walkway should have been split and given to adjoining property owners, rather than all ten (10) feet going to one (1) owner. Mr. Slager also discussed the issues brought up by the Fire Department. Assistant Fire Chief Nick Mager stated that it would not be a turning radius of twenty (20) feet, but rather a turning radius for a truck with a wheelbase of twenty (20) feet. This is something that will need to be engineered.

Board's Discussion: Jeff Bunge stated that any approval will need unanimous approval. Tim Kubiak asked if this lot is buildable without going through the subdivision process. Attorney Tim Kuiper stated yes, subject to the improvement of the road. Since Mr. Dolder owns both sides of the ten (10) foot vacated walkway, he would still have the same amount of access. Discussion occurred regarding the location of the homeowners' association lake access. The beach is directly north of the lot on which

Mr. Dolder is proposing to build his home. Jeff Bunge stated concerns regarding the ability of a fire truck accessing the property without having to go onto the homeowners' association's property. Attorney Jim Wieser stated that Mr. Dolder can dedicate a portion of his western lot as an access easement in order to allow for this type of situation. Tim Kubiak asked if a retaining wall will be installed. Mr. Dolder stated that it will parallel the house from east to west, and then curve around north to south to allow a driveway to be put in. Tim Kubiak stated that the lot is definitely large enough to build a home on. However, Mr. Kubiak agreed with Building Commissioner Jack Slager that he would prefer to see these lots established as a two (2) lot subdivision. Diane Cusack asked how close the home will be to the lake. Mike Dolder stated the house will be approximately seventeen (17) feet from the lake. It appears the deck will be approximately ten (10) feet from the lake. Discussion occurred regarding addressing the drainage issues to make sure the issues do not become any worse. Tim Kubiak stated that the proposed home could be moved ten (10) feet to the south, if needed. The only variance that would be necessary would be the height variance and the front yard fence. Discussion occurred regarding the creation of a subdivision. Attorney Kuiper stated that if the Board wishes, they can make that a contingency of any approval given. Discussion occurred regarding the impact of the home on neighbors. Unfortunately, someone will be affected; the issue is trying to minimize the number of people that are impacted.

Board's Decision: Tim Kubiak moved to grant the variance to grant the variance request for a home with a height of thirty-two (32) feet at the peak, 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 did not carry 2-1, with Diane Cusack voting against. Because there was no majority vote, no action was taken.

Motion by Tim Kubiak and seconded by Diane Cusack to defer this item to the next public meeting. After a roll call vote, the motion carried 3-0.

Tim Kubiak asked that the petitioner provide the Board with a proposal regarding the Fire Department's recommendation and some sort of traffic barrier or something similar to address safety concerns near the beach area.

Bob Carnahan, as Town Council liaison, inquired if remonstrators will have an opportunity to speak at the next public meeting regarding this item. Attorney Tim Kuiper stated that the public hearing was not continued to the next meeting, only the decision to be made by the Board. Therefore, remonstrators will not be able to speak at the next meeting. Those concerned are allowed to come to the meeting, but unless the Board decides to open the public portion of the meeting, they will not be able to speak. Those members who are not present tonight will have access to tonight's meeting recording, and they will also be provided with a copy of the minutes of tonight's hearing for their review.

2. Cano – Developmental Variance

Owner: Accent Homes, 2036 W 81st Avenue, Merrillville, Indiana
Petitioner: Jaime & Nick Cano, 14904 Euclid Street, Cedar Lake, Indiana
Vicinity: 9721 W 148th Place, Cedar Lake, Indiana (Lynnsway Lot 49)
Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title VIII – Residential (R-2) Zoning District, 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.

Petitioner is requesting a Developmental Variance to allow an attached garage that exceeds the allowed maximum size of eight hundred sixty-four (864) square feet. The proposed attached garage will be approximately eight hundred ninety-five (895) square feet.

Attorney to Review Legals: Attorney Tim Kuiper stated this item was properly continued to tonight's meeting. The notices and publications were in order at that time, but due to a lack of quorum, the meeting was cancelled.

Petitioner's Comments: Frank Morin of Accent Homes was present with the Petitioner, Jaime Cano. Frank stated that the Petitioner is proposing to build a home at the above-referenced address. However, the depth of the garage is proposed to be slightly larger in order to allow for more storage. An overhead garage door will be located at the rear of the garage, but only to allow for items to be taken in and out; there will be no driveway to the rear.

Remonstrators: None.

Building Department's Comments: None.

Board's Discussion: None.

Board's Decision: Motion by Tim Kubiak 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 3-0.

3. Frechette – Developmental Variance

Owner/Petitioner: Jill & Alan Frechette, 500 Lexington Avenue, Crown Point, Indiana

Vicinity: 7516 W 136th 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: 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 front yard setback of thirty (30) feet. The proposed deck will be approximately five feet by twelve feet (5'x12') in size and have a setback of less than six inches (6") from the property line.

Attorney to Review Legals: Attorney Tim Kuiper stated this item was properly continued from last month's meeting and that the notices and publications are in order.

Petitioner's Comments: Alan Frechette stated he purchased the property in May 2012. Pictures were provided to show the Board where the proposed deck will be located. The deck will be less than a foot from the twenty (20) foot right-of-way, although the actual road is approximately ten (10) feet wide. The deck would come off the kitchen area, and the proposed location would allow for a better view of the lake. The proposed deck would not come much farther off the house than that existing sidewalk.

Remonstrators: None.

Building Department's Comments: Jack Slager stated that Mr. Frechette is not able to build off the back of his home, as it would encroach on the Property Owner's Association's property.

Board's Discussion: Tim Kubiak asked how high off the ground the kitchen door is. Alan Frechette stated the door is approximately three (3) feet above the ground. Discussion occurred regarding the beach area in front of the home. This property is owned by the Property Owner's Association, so Mr. Frechette would not be able to build to that side, as it would encroach on the property. Jeff Bunge asked if there is any access to the north side of the house. Mr. Frechette stated that he plans to build a screened-in porch. Tim Kubiak asked if there will be any stairs coming off the deck. Mr. Frechette stated that no, there will not be stairs, as he only wants a patio off the kitchen for entertainment. The deck will have railing all around. Tim Kubiak stated concerns of how close the deck will be from the property line and would prefer to see the deck at least a foot off the line. Discussion occurred regarding the possibility of the right-of-way being improved and having the deck so close to that line. Alan Frechette stated he wouldn't mind continuing this item, as he is not sure whether or not making the deck smaller would be feasible.

Board's Decision: Motion by Diane Cusack to approve the variance, as requested. Motion died by lack of motion. Motion by Tim Kubiak and seconded by Diane Cusack to defer this item to next month's meeting. After a roll call vote, the motion carried 3-0.

New Business:

1. Vega – Developmental Variance

Owner/Petitioner: Daisy Vega, 14745 Ivy Street, Cedar Lake, Indiana 46303

Vicinity: 14745 Ivy Street, Cedar Lake, Indiana 46303

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XXIV – Swimming Pool Regulations, 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.

Petitioner is requesting a Developmental Variance to allow a swimming pool 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 Comments: Enrique and Daisy Gonzalez stated they are proposing to install a pool in their backyard. Because the home is a through-lot which backs up to Parrish Avenue, a variance is required to allow the pool in a front yard. The pool is approximately fifteen by thirty (15x30) feet in size and will be ten (10) feet away from the house and will not encroach on the easement to the rear of the property.

Remonstrators: None.

Building Department's Comments: None.

Board's Discussion: Jeff Bunge asked if a deck will be built around the deck. Mr. Gonzalez stated that there will be no deck, but there is a fence around the yard and pool.

Board's Decision: Motion by Tim Kubiak 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.

Diane Cusack seconded. After a roll call vote, the motion carried 3-0.

2. Accent Homes – Developmental Variance

Owner: Monroe Street Holdings, LLC Series 8 – Cedar Lake, 111 W Monroe St, 11W, Chicago, IL 60603

Petitioner: Accent Homes, Inc, 2036 W 81st Avenue, Merrillville, IN 46410

Vicinity: 10017 W 128th 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: 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** 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 new home with front and rear yard setbacks of twenty-five (25) feet each.

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

Petitioner's Comments: Frank Morin of Accent Homes stated that, ultimately, he would like to get the setbacks changed for the entire subdivision, as they have purchased the majority of the remaining lots in the development. However, it seems there is some confusion on the mechanics of going about doing every lot at once. At this time, the buyer of this particular lot wants to begin building as soon as possible, so Accent is only applying for this single variance at this time. The reason for requesting smaller setbacks is to accommodate for the desire for more use of the rear yard. Reducing the front yard will not affect the amount of space needed for a driveway, sidewalks, etc. Mr. Morin stated that because of the depth of the lots in this subdivision, homeowners find it difficult to add decks to the back of their homes without the need for a variance. By reducing the setback lines, homeowners will be able to maximize the usable space of their yards. Mr. Morin also stated he would like to discuss the possibility of moving forward with changing the setback lines for the remainder of the subdivision.

Remonstrators: None.

Building Department's Comments: Jack Slager stated that there are existing homes in the subdivision that are already built at a thirty (30) foot setback. However, is there anything else that needs to be done, if the setback was changed, such as a rerecorded plat. Attorney Kuiper stated that that would not need to be done.

Board's Discussion: Jeff Bunge asked if both R-1 and R-2 zoning existed in this subdivision. Tim Kubiak stated that the whole subdivision is R-2, and to the north and west of the development is R-1. Tim Kubiak stated that he is not in favor of moving the front yard building line forward, as this is a fairly new subdivision and has already been through the platting process. Tim Kubiak stated that he has no problem with reducing the rear yard setback requirement, but would like to keep the front yard setbacks consistent with what already exists. Jeff Bunge reiterated that any approval tonight will need to be unanimous. Discussion occurred with Mr. Morin and whether or not he would like to wait until next month, when more members will be present. Mr. Morin stated he would prefer to defer this item until the next meeting.

Board's Decision: Motion by Tim Kubiak and seconded by Diane Cusack to defer this item to next month's public meeting. After a roll call vote, the motion carried 3-0.

3. Mustang Investment Properties, LLC – Use Variance

Owner/Petitioner: Mustang Investment Properties, LLC, 5110 W 133rd Avenue, Crown Point, Indiana 46307

Vicinity: 14433 Morse Street, Cedar Lake, Indiana 46303

Request: Petitioner is requesting a Use Variance from Zoning Ordinance No. 496, Title XII – Neighborhood Business B-1 Zoning District, Section 1: Intended Purposes: The neighborhood Business (B-1) Zoning District, as hereinafter established, is designed to meet the day-to-day convenience shopping and service needs of persons residing in adjacent residential areas. All business establishments in this Zoning District shall be retail or service establishments dealing directly with customers...

Petitioner is requesting a Use Variance to allow a residential use of an existing structure in a Neighborhood Business B-1 Zoning District. This structure was previously occupied as a residence.

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

Petitioner's Comments: Tina Glade was present tonight with Elmer Glade, owner of the property. Ms. Glade stated that this property has been for rent for several months. Ms. Glade stated they have tried to rent this property out as a commercial property; however, all interested parties have wanted to rent it as a residence. The building is currently set up as a three (3) bedroom home.

Remonstrators: None.

Building Department's Comments: Jack Slager asked if the building is one (1) unit. Yes, it is one (1) unit and no changes will need to be made to the building.

Board's Discussion: Jeff Bunge asked how long the building has been vacant. Ms. Glade stated that it has been vacant since the last tenant passed away, which is about one (1) year. Discussion occurred regarding what would happen in the event that this variance is granted. The variance will be good until such time that the building is not used for this purpose for the time stated in the ordinance.

Board's Recommendation to the Town Council: Tim Kubiak moved to send a favorable recommendation to the Town Council, 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 3-0.

4. Lotton – Developmental Variance

Owner/Petitioner: John Lotton, 8310 W 147th Avenue, Cedar Lake, Indiana 46303

Vicinity: 7304 W 134th Court, Cedar Lake, Indiana 46303

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XX – Supplementary Zoning District Regulations, Section 23: General Area Provisions: A. Area Requirements: 8) Residential Buildings in Prerecorded Subdivisions: No building shall be erected for residential purposes having a minimum ground floor area of less than ... one thousand one hundred (1,100) square feet minimum (i.e. living space) for a one and one-half (1½) story house or two (2) story house with a seven hundred sixty-eight (768) square feet first floor...; **and** 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** Section 5: Building Size: B. Attached Garages: Attached garages on all new home permits shall have a minimum four hundred (400) square feet.

Petitioner is requesting a Developmental Variance to allow a new two (2) story home in a prerecorded subdivision with a ground floor area of approximately six hundred seventy-five (675) square feet, to total approximately one thousand four hundred (1,400) square feet in size; and to allow the home to be built on a corner lot with front yard setbacks of approximately twenty (20) feet; and to allow an attached garage that is approximately two hundred (200) square feet in size.

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

Petitioner's Comments: Jim Williams was present tonight on behalf of John Lotton. Mr. Williams stated that the basis of the variance is to allow for the driveway and the garage to be positioned between two (2) large trees. The home will face Elm Street. Mr. Williams stated the location of the home is the best place to try to preserve the existing trees on the lot. Mr. Williams also stated that once the house is built, it may not be as close to the setbacks that are being requested, but that Mr. Lotton would like the ability to move the house a few feet, if needed.

Remonstrators: Joseph Giordano, 2432 Bemis Road, Crete, Illinois, stated he owns the lots to the east of the proposed home. Mr. Giordano asked how big the lots are and why the house couldn't be set deeper in the lot to avoid a twenty (20) foot setback. Discussion occurred regarding the amount of yard that would be available, as well as the position of the trees.

Building Department's Comments:

Board's Discussion: Discussion occurred regarding the proposed location of the home. By asking for a twenty (20) foot variance, Mr. Lotton will have more flexibility to move the home around once construction begins. Jeff Bunge stated he has no issue with the twenty (20) foot setback request. Tim Kubiak agreed, stating that it is consistent with the existing homes in the surrounding area. Discussion occurred regarding whether or not an accessory structure will be constructed in the future. Mr. Williams was not sure.

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.

Diane Cusack seconded. After a roll call vote, the motion carried 3-0.

5. Pritt – Developmental Variance

Owner/Petitioner: David Pritt, 12704 Webster Street, Cedar Lake, Indiana 46303

Vicinity: 12704 Webster Street, Cedar Lake, Indiana 46303

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: 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...; **and** 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 area of the depth of the lot; **and** 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: E. Building Coverage: Not more than twenty-five percent (25%) of the area of the lot may be covered by buildings and/or structures.

Petitioner is requesting a Developmental Variance to allow an eighteen by thirty (18x30) foot deck within the required side yard setbacks, within the required rear yard setback of twenty-five (25) feet and to allow more than twenty-five percent (25%) lot coverage. The proposed deck will have side yard setbacks of less than eight (8) feet on either side, a rear yard setback of approximately fifteen and one-half (15.5) feet and lot coverage totaling approximately thirty-five percent (35%).

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

Petitioner's Comments: Not present.

Board's Decision: Motion by Tim Kubiak and seconded by Diane Cusack to defer this item to the next public meeting. After a voice vote, the motion carried 3-0.

6. Luke Oil – Developmental Variance

Owner/Petitioner: Luke Land, LLC, 3592 N Hobart Road, Hobart, Indiana

Vicinity: 7101 W 133rd Avenue, Cedar Lake, Indiana 46303

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

Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XXII – Sign Regulations, Section 3: Signs is Business or Industrial Districts: A.1.c. The maximum sign sizes shall not exceed: ii. In the case of two (2) such on-premise signs, one (1) sign shall be no more than sixty (60) square feet in size and one (1) sign shall be no more than thirty-two (32) square feet in size.

Petitioner is requesting a Developmental Variance to allow more than the permitted two (2) on-premise signs. Petitioner is requesting a total of five (5) on-premise signs, four (4) of which will be on the building and one (1) freestanding sign. The proposed freestanding size will be a total size of approximately one hundred fifty (150) square feet. The proposed building signs will range from approximately thirty-six (36) square feet to approximately sixty (60) square feet.

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

Petitioner's Comments: Not present.

Board's Decision: Motion by Tim Kubiak and seconded by Diane Cusack to defer this item to the next public meeting. After a voice vote, the motion carried 3-0.

Public Comment: Larry Stover of 13971 Orchard Drive stated concerns regarding the gate on Binyon Avenue and that it is not open in case of an emergency. Mr. Stover stated concerns regarding the kids playing around the dam. Attorney Tim Kuiper stated that the Board of Zoning Appeals cannot do anything about these matters and instructed Mr. Stover to contact Town Administrator Ian Nicolini to discuss his concerns.

Adjournment: Meeting was adjourned at approximately 9:57 p.m.

Diane Cusack

Tim Kubiak

Eric Burnham

Jeff Bunge, Vice Chairman

Jeremy Kuiper, Chairman

Attest: _____
Jenn Montgomery, Recording Secretary