

**Town of Cedar Lake – Board of Zoning Appeals
Public Meeting Minutes
November 15, 2012**

The Cedar Lake Board of Zoning Appeals held their Public Meeting on Thursday, November 15, 2012. The meeting was called to order at approximately 7:00 p.m. at the Cedar Lake Town Hall. Those Members present were: Eric Burnham, Diane Cusack, and Jeremy Kuiper, Chairman. Attorney Tim Kuiper, of Austgen, Kuiper & Associates, Building Commissioner Jack Slager, and Jenn Montgomery, Recording Secretary, were also present. Vice Chairman Jeff Bunge arrived at approximately 7:02. Member Tim Kubiak was not present at tonight's meeting.

Minutes: Motion by Eric Burnham and seconded by Diane Cusack to approve the minutes of the October 11, 2012 public meeting. After a voice vote, the motion carried 3-0.

Public Hearings:

Old Business:

1. 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 this item was properly advertised and properly continued to tonight's meeting.

Petitioner's Comments: Not present.

Board's Decision: Motion by Eric Burnham and seconded by Diane Cusack to defer this item to the next public meeting. After a voice vote, the motion carried 4-0.

New Business:

1. Maurer/Wachowiak – Use Variance

Owner: Windy Hill Properties, LLC, 2222 Red River Drive, Schererville, Indiana 46375

Petitioner: Greg Maurer & Brian Wachowiak, PO Box 454, Cedar Lake, Indiana 46303

Vicinity: 12937 US Highway 41, Cedar Lake, Indiana 46303

Request: Petitioner is requesting a Use Variance from Zoning Ordinance No. 496, Title VIII – Community Business (B-2) Zoning District, Section 2: Use Regulations.

Petitioner is requesting a Use Variance to allow a new business consisting of retail sales of firearms.

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

Petitioner's Comments: Greg Maurer and Brian Wachowiak, owners of South County Gun Company, stated they are renting the unit next to Fuel Fitness and that the business will consist of mainly e-commerce sales right now. Approval of the petitioner's federal firearms license is pending tonight's approval.

Remonstrators: None.

Building Department's Comments: Jack Slager stated that with the current layout of the building, no permit will be needed, other than occupancy. With the future layout, a permit will probably be needed for the improvements.

Board's Discussion: Jeremy Kuiper asked how big the space is that will be rented. The petitioner responded that right now, only half of the unit is rented, which is about 750 square feet. The other half of the unit is being used for storage by the landlord. As the business is going to begin with e-commerce, not much will be done to the interior. As the business grows, the landlord has agreed to rent the whole space, but that will not happen immediately. Floor plans were provided to the Board showing both the present and future layouts of the unit. Diane Cusack asked about what security measures are or will be in place. The petitioners responded that there are security measures in place, which follow the ATF's recommendations, including cameras and a gun safe. Jeremy Kuiper asked if anything more than just gun sales will occur in the building. The Petitioner responded that there will only be sales in the store.

Board's Decision: Motion by Eric Burnham to send a favorable recommendation to the Town Council to allow a new business consisting of retail sales of firearms, 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 the motion. After a roll call vote, the motion carried 4-0.

2. Parker – Developmental Variance

Owner/Petitioner: Robert Parker, 7227 W 136th Court, Cedar Lake, Indiana

Vicinity: 7301 W 136th Lane, Cedar Lake, Indiana

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: 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; **and**

8) No building shall be erected for residential purposes having a minimum ground floor area of less than 896 square feet (i.e. footprint) for a single story house; or one thousand one hundred (1,100) square feet minimum (i.e. living space) for a one and one-half (½) story house or two (2) story house with a seven hundred sixty-eight (768) square foot first floor; **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 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 and the aggregate width of both side yards on any lot shall not be less than twenty percent (20%) of the width of the lot.

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 seven hundred forty (740) square feet, to total approximately one thousand one hundred four (1,104) square feet in size on a lot approximately four thousand seven hundred ninety-two (4,792) square feet in size; and to allow a front yard setback of approximately seven (7) feet and a side yard setback of approximately five (5) feet. A home currently exists on the lot, which will be torn down and reconstructed on the existing foundation.

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

Petitioner's Comments: Robert Parker was present at tonight's meeting. Mr. Parker stated he has owned the house for several years. Initially, Mr. Parker wanted to remodel the home, but after further inspection, it would be too costly to make all the necessary improvements, as the house is structurally weak. It would be favorable to Mr. Parker and the Town to just demolish the existing home and rebuild on the newer foundation. The proposed home would not be any more non-compliant than the existing home. Currently, there is a three (3) bedroom, one (1) bath, single-story home. Mr. Parker is proposed to construct a three (3) bedroom, two (2) bath, two-story home.

Remonstrators: None.

Building Department's Comments: Jack Slager stated that the foundation is about the only sound part of the existing home and that it is in dire need of repair. Jack Slager stated he has reviewed the plans, and stated no issues with the home.

Board's Discussion: Jeff Bunge asked if there is anything Mr. Parker can do about the encroachment into 136th Lane. Mr. Parker stated that unfortunately he is going to build on the existing foundation, so the setbacks would remain the same as the existing home.

Board's Decision: Motion by Jeff Bunge 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 the motion. After a roll call vote, the motion carried 4-0.

3. 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: 10011 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 5: Building Size: Minimum footprint for a two-story house is eight hundred (800) square feet. All such areas shall be exclusive of unenclosed porches, terraces and garages.

Petitioner is requesting a Developmental Variance to allow a new two-story home with a footprint of approximately seven hundred (700) square feet.

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

Petitioner's Comments: Frank Moran of Accent Homes provided handouts to the Board showing what the proposed home will look like. The home has already been sold, but Frank stated they were not aware the Town had a requirement of an eight hundred (800) square foot footprint. This home will have a footprint of approximately seven hundred (700) square feet, but the total size of the home will be approximately one thousand six hundred (1,600), plus a full, finished basement.

Remonstrators: None.

Building Department's Comments: No issues.

Board's Discussion: None.

Board's Decision: Motion by Eric Burnham 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 the motion. After a roll call vote, the motion carried 4-0.

Public Comment: None.

Adjournment: Meeting was adjourned at approximately 7:31 p.m.

Diane Cusack

Tim Kubiak

Eric Burnham

Jeff Bunge, Vice Chairman

Jeremy Kuiper, Chairman

Attest: _____
Jenn Montgomery, Recording Secretary