

**Town of Cedar Lake – BZA
Public Meeting Minutes
August 8, 2013**

Call to Order: 7:00 p.m.

Roll Call:

Present	Eric Olson Member	Present	Tim Kuiper Town Attorney
Present	Julie Rivera Member	Present	Jack Slager Building Commissioner
Present	Tim Kubiak Member	Present	Jessica Chick Recording Secretary
Present	Jeff Bunge Vice Chairman		
Present	Jeremy Kuiper Chairman		

Minutes

Approval of July 11, 2013 public meeting minutes. Motion made by Julie Rivera and seconded by Eric Olson.

Eric Olson	Julie Rivera	Tim Kubiak	Jeff Bunge	Jeremy Kuiper
YES	YES	YES	YES	YES

Vote 5-0

New Business

1. Frank's Backyard BBQ- Special Use Variance

Owner/ Petitioner: Al Bunge, 1063 N. Lakeview Dr., Lowell, IN 46356
Petitioner: Robert Schrum, Frank's Backyard BBQ, 13465 Drummond St., Cedar Lake, IN 46303
Vicinity: 9905 W. 133rd Ave, Cedar Lake, IN 46303
Legal Description: AIRPORT HEIGHTS E.20FT.L11& ALL LOT 12
Request: Petitioner is requesting a Variance of Use from Zoning Ordinance No. 496, Title XII, Neighborhood Business (B-1) Zoning District.
This Variance of Use is to allow a mobile Restaurant in the parking lot at the site of the Sportsman's Den.

- (1) Attorney to Review Legal's: Notices and publications are in order at this time per Town Attorney Tim Kuiper.
- (2) Petitioners Comments: Currently has a catering business and he is looking to set up his BBQ cart at the Sportsmen's Den every other weekend Friday-Sundays, with possibly Mondays and/or Tuesdays to help attract customers while getting an idea as to whether the town receives his products. The previous weekend he was issued a trial run and he sold out of his product every day and would like to do this as a seasonal business within the town between May and October. The proposed hours of operation are from 11:00 am to 6:00 pm for the BBQ cart, with no current outdoor seating at the moment, using all wood fire for cooking, and occasionally may need to use a camp stove. He is using the electricity and water from the Sportsmen's Den, and is set up right by their sign with a 10 X 10 canopy with temporary signage. He starts to prepare the food early on-site, per requirement of the health department. He is serving safe certified by Lake County, the health inspector was at his current site on Friday for an inspection and there were no problems. All work is run out of the trailer; he has a custom smoker that is built into the trailer. The canopy is 10 X 10 with steam tables at a holding temperature, and also sells pop and water. He currently does not do this for any other businesses; he did however work at the Cedar Lake Summer fest last year. The canopy is taken down every night then brought back and set up. The smoker is the only item that would stay on the site for the days he is set up.

- (3) Remonstrators: Al Bunge, 7120 W. 133rd Ave., Cedar Lake, IN 46303, owner of the Sportsmen’s Den. He is for this variance in regards to creating traffic for his business.
- (4) Building Departments Comment: This is the second person to come forward to request a variance for a mobile BBQ unit, the first petitioner who is present at the meeting today. He wants to set up his BBQ unit at the Town Club. Research had been conducted on neighboring towns and how they handle this type of business. Both Crown Point and Merrillville work it as a peddler’s permit and limit the number of permits issued within a certain amount of time. With this becoming a popular attraction it is something that needs to be handled. The one concern is how it may affect the neighboring businesses that pay their taxes and sewer bills. There is no current ordinance for the Town of Cedar Lake for this type of variance.
- (5) Board Discussion: With this being the second request for this type of variance, a limit or time limit needs to be set for each peddler in order to avoid an overabundance of requests. Although it becomes an incubator for new potential businesses to come to the town, it also may deter local businesses from gaining profit. Crown Point grants a certain amount of permits granted within a certain time frame, more information will be found regarding how they handle such requests. Some of the problems at hand with these units are parking, traffic circulation, water sanitation, restrooms, etc. It is important to ensure that the units are tied within a certain business, like in this case. William Sheffler with Billy’s BBQ Shack, the previous petitioner whom applied for the same variance, stated that within his research presented a copy of Crown Point’s application form for a mobile vendor. They do require that there is a letter from a commercial business owner for the set up. On an average of mobile food truck vendors, they are putting up a permanent establishment within three to five years.
- (6) Recommendation to the Council:

Motion made to send a favorable recommendation to the Town Council with a policy in place to make the ordinance fair and equal for all participating vendors, similar to the surrounding community’s current ordinance, as well as a business establishment accompanying the unit, made by Tim Kubiak and seconded by Eric Olson.

Eric Olson	Julie Rivera	Tim Kubiak	Jeff Bunge	Jeremy Kuiper
YES	YES	YES	ABSTAIN	YES

Vote 4-1

2. Daniel Titus- Developmental Variance

Owner/ Petitioner: Daniel Titus, 6217 W. 136th Pl, Cedar Lake, IN 46303
Vicinity: 6217 W. 136th Pl, Cedar Lake, IN 46303
Legal Description: Robins Nest Unit 4 Lot 186
Request: Petitioner is requesting a Developmental Variance from Zoning No. 496, Title VII- Residential (R-2) Zoning District, Section 4 Area, Width, and Yard Regulations which states, “Rear yard: There shall be a rear yard not less than twenty-five percent (25%) of the depth of the lot.”
This Developmental Variance is to allow a deck to be built approximately 20’ X 35’ in size within the requested rear yard setback of thirty-five (35) feet. (Actual to be approximately sixteen (16) feet.)

- (1) Attorney to Review Legals: The notices and legals are in order for this item as requested, per Town Attorney Tim Kuiper.
- (2) Petitioner’s Comments: He has put a pool in his backyard earlier this summer and has already received a permit for a smaller deck for the pool. The deck which he would like to construct would surround the pool which would extend beyond the seventeen (17) feet from the house. None of his neighbors have an objection to the proposed deck.

- (3) Remonstrators: None
- (4) Building Department's Comments: There are drawings within the enclosed packet which give the details of the proposed deck, as well as a site plan survey. The lots in the Robins Nest subdivision are approximately one hundred and forty (140) feet deep, and because of the requirement of the twenty-five percent (25%) rear yard the petitioner is required to stay thirty-five (35) feet from his rear yard property line. He is proposing only being sixteen (16) feet off of the rear yard property line. There is a fifteen (15) foot easement behind the petitioner's property; therefore he is clear of the easement for the proposed deck.
- (5) Board's Discussion: The proposed deck goes in line with the house along the west side with the fence already existing.

Motion made to grant the variance as requested, made by Tim Kubiak and seconded by Julie Rivera.

Eric Olson	Julie Rivera	Tim Kubiak	Jeff Bunge	Jeremy Kuiper
YES	YES	YES	YES	YES

Vote 5-0

3. John Fuentes- Developmental Variance

Owner/Petitioner: John Fuentes, 14715 Ivy St., Cedar Lake, IN 46303
Vicinity: 14715 Ivy St., Cedar Lake, IN 46303
Legal Description: LYNNSWAY UNIT 2 LOT 29
Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XXI- Fence Regulations, Section A, which states ‘Fences are allowed on lots not served by sidewalks provided that the fence shall not exceed four (4) feet in height and must be set back from the adjacent right of way to be at least six (6) feet, unless otherwise provided herein.’
This Developmental Variance is to allow a six (6) foot fence to be placed on the property line in a front yard of a through lot adjacent to Parrish Avenue.

- (1) Attorney to Review Legals: The notices and legals are in order for this item as requested, per Town Attorney Tim Kuiper.
- (2) Petitioner's Comments: He would like to put a six (6) foot PVC fence up in his backyard butted up to his southern neighbor's house. The fence will be white vinyl which will match his neighbors fencing.
- (3) Remonstrators: None
- (4) Building Department's Comments: This is very similar to a variance that was granted previously, the petitioner's property backs up to Parrish Avenue.
- (5) Board's Discussion: none

Motion made to grant the requested variance by Julie Rivera and seconded by Eric Olson.

Eric Olson	Julie Rivera	Tim Kubiak	Jeff Bunge	Jeremy Kuiper
YES	YES	YES	YES	YES

Vote 5-0

4. Accent Homes- Developmental Variance

Owner/Petitioner: Accent Homes, 2036 W. 81st Ave., Merrillville, IN 46410
Vicinity: 10108 W. 128th Ave., Cedar Lake, IN 46303
Legal Description: 45-15-21-253-018.000-014
Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title VIII- Residential (R-2) Zoning District, Section 5 Building Size, states, “Minimum footprint for a two-story is eight hundred (800) square feet.”
This Developmental Variance is to allow a one thousand eight hundred ninety-two (1,892) square foot, two-story home with a first floor (foot

print) of seven hundred and four (704) square feet. (800 sq. foot minimum foot print requirement)

- (1) Attorney’s to Review Legals: Notices and legals are in order for this request per Town Attorney Tim Kuiper.
- (2) Petitioner’s Comments: This particular plan is not actively marketed because of the square footage requirement; however the buyer requested this home. The total square footage of this house is one thousand eight hundred and ninety-two (1,892) square feet. This house will not hurt any of the neighboring homes values, this variance is only needed because of the square footage requirement on the ground floor is not met. The owners are aware that the variance needs to be approved before we can go further with the house.
- (3) Remonstrators: Eric Edwards, 10105 W. 127th Pl., Cedar Lake, IN 46303. Concerned for the value of the surrounding home and wants to ensure that this home will not depreciate the other homes in the neighborhood.
- (4) Building Department’s Comments: The ordinance as it stands states that the minimum square footage for a two story home is one thousand six hundred (1,600) square feet, which this home meets. Then the ordinance goes on to say that the first floors minimum square footage is eight hundred (800) square feet, which this home is just shy of. The same exact plan was approved last year, the value is there, and is actually more valuable than several of the other homes they have built in the neighborhood so we don’t see any problems. The house already has a buyer; it is not going to be a model.
- (5) Board’s Discussion: none.
Motion made to grant the variance as requested made by Jeff Bunge and seconded by Eric Olson.

Eric Olson	Julie Rivera	Tim Kubiak	Jeff Bunge	Jeremy Kuiper
YES	YES	YES	YES	YES

Vote 5-0

5. Donna Springer- Developmental Variance

Owner/Petitioner: Donna Springer, 8217 Lake Shore Dr., Cedar Lake, IN 46303
Vicinity: 8217 Lake Shore Dr., Cedar Lake, IN 46303
Legal Description: WHALEY’S SUB. CEDAR LAKE L. 17DOC2002-68320
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 which states, “Rear yard: there shall be a rear yard not less than twenty-five percent (25%) of the depth of the lot. Building Coverage: Not more than twenty-five percent (25%) of the area of the lot may be covered by buildings and/or structures.”
This Developmental Variance is to allow Petitioner to re-build and expand an existing deck structure exceeding the 25% lot coverage (1,782 sq. feet allowed an approximately 2,282 sq. feet actual), within the required 25% rear yard setback (32.3’ required, approximately 24’ actual), and within the required side yard setback (8’ required, approximately 1’ actual).

- (1) Attorney to Review Legals: The notices and legals are in order for this request per Town Attorney Tim Kuiper.
- (2) Petitioner’s Comments: They are trying to extend out an existing deck. The home is on the lake with the deck being on the north side. There are two decks, one on each side of a

walkway and they would like to extend the one deck that is set back so the entire deck is one rectangular structure. They are actually adding 13’ X 6’ to the existing deck.

- (3) Remonstrators: none
- (4) Building Department’s Comments: This is a unique lot located on the lake; the house sits on the one side of the lot. The petitioners want to improve the deck which is currently legal and nonconforming and they want to expand it to become more nonconforming.
- (5) Board’s Discussion: none.

Motion made to grant the variance as requested by Tim Kubiak and seconded by Eric Olson.

Eric Olson	Julie Rivera	Tim Kubiak	Jeff Bunge	Jeremy Kuiper
YES	YES	YES	YES	YES

Vote 5-0

6. **Wendy Spencer, Pier74- Special Use & Developmental Variance**

Owner/Petitioner: Wendy Spencer, 8506 W. 141st Ln., Cedar Lake, IN 46303
Vicinity: 13125 Lake Shore Dr., Cedar Lake, IN 46303
Legal Description: MEYER’S SUB. CEDAR LAKE N30FT LOT 12 & 13 LY’G E OF PUBLIC HWY EX E312.5FT
Request: Petitioner is requesting a Special Use variance from Zoning Ordinance No. 496, Title XIII- Community Business (B-2), Section 2 (52), Community Business (B-2) Zoning District that states “Restaurants, or Cafes (excluding dancing or entertainment and restaurants of drive-in nature and establishments serving alcoholic beverage).”

Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XVII-Section B that states “all business, service, storage, merchandise, display, and where permitted, repair and processing, shall be conducted within an enclosed building, unless authorized as a variance” **and** Title XXVII, Section 4, states “Off-street parking spaces, may be located in any yard, except a front yard and a side yard adjoining a street.”
This Special Use Variance is to allow the outdoor sale of alcoholic beverages. This Developmental Variance is to allow outdoor parking, dining, seating within the required front yard setback.

- (1) Attorney to Review Legals: The notices and publications are in order for this request per Town Attorney Tim Kuiper.
- (2) Petitioner’s Comments: They are trying to turn their current restaurant into a classy casual restaurant; they have started from very little and have already made many improvements to the restaurant. The lake adds such a great dimension to the restaurant and they would like to use the existing exit on the south end of their building to access the proposed outdoor seating. From this exit, towards the west, towards the parking lot, with the fence to the south then there would be a barrier towards the west and north. Then after the approval of the variance, the plans would be forwarded to the ATC, who would also have to approve upon the proposed plans. The plan is for three or four large picnic tables for outdoor seating, with a large fence to the south. They have already rearranged the parking lot which has added more spots available for parking while making it safer for motorists and patrons. A sign has also been made to allow motorists that there is no traffic allowed through the lot. The parking lot in the back of the building is seventy feet wide which has allowed for fourteen parking spots total. There were previously only a total of five parking spots in the front, one in which being the handicap spot, the new parking lot has room for nine spots with four more on the side of the building, concluding at twenty six total spots. These spots are to help accommodate for the sixteen to seventeen total tables including the inside as well as outside tables. The fence that would be put up will be semi-permanent, ATC guidelines state that as

long as sixty percent (60%) of sales are not alcohol that the business needs something that reasonably deters people from walking off with alcoholic beverages. There are some current issues with drainage that are affecting the appearance of the asphalt in the back lot, those issues must be dealt with before we are able to re-pave the back lot. A wood slat fence is proposed for the south side of the restaurant with a temporary fence on the north side of the lot.

- (3) Remonstrators: Kubal Rental Property, 13305 Morse St., Cedar Lake, IN 46303. Written remonstrator, stating that they are opposing of the proposed outdoor seating.
- (4) Building Department’s Comments: refer to above.
- (5) Board’s Discussion: Concern has been raised as to how tall the fence on the north side of the lot will be as well as to how close it will be to 133rd Ave. A proposed six foot fence then coming out twenty (20) feet from the building, as long as there is no blockage from the fence for the road. Concern has also been raised concerning the outside seating on the north side with the parking spaces just north of the seating. A barrier of some sort would need to be placed in between the two to avoid a car backing into the outdoor seating.
- (6) Board’s Decision on Developmental Variance:
Motion made to grant the variance as requested, with the conditions of allowing the twenty six (26) proposed parking spaces, the six (6) foot fence no longer than twenty (20) feet from the building, and a barrier in between the parking spaces and the outdoor seating, made by Tim Kubiak and seconded by Eric Olson.

Eric Olson	Julie Rivera	Tim Kubiak	Jeff Bunge	Jeremy Kuiper
YES	YES	YES	YES	YES

Vote 5-0

Board’s Recommendation to Council on Special Use:
Motion made to send a favorable recommendation to the Town Council for the allowance of outdoor sale of alcoholic beverages made by Tim Kubiak and seconded by Eric Olson.

Eric Olson	Julie Rivera	Tim Kubiak	Jeff Bunge	Jeremy Kuiper
YES	YES	YES	YES	YES

Vote 5-0

Public Comment: none
Adjournment: The meeting was adjourned approximately 8:09 pm.
Press Session: Board of Zoning Appeals Meeting- September 12, 2103 at 7:00 pm

Eric Olson

Tim Kubiak

Julie Rivera

Jeff Bunge, Vice Chairman

Jeremy Kuiper, Chairman

Attest: _____
Jessica Chick, Recording Secretary