



**TOWN OF CEDAR LAKE  
BOARD OF ZONING APPEALS  
PUBLIC MEETING MINUTES  
May 12, 2016 7:00 P.M.**

Call to Order (Time): 7:00 p.m.

Pledge to Flag:

Roll Call:

Absent Eric Olson

Present Jerry Wilkening

Present John Kiepura

Present Jeff Bunge (Arrived Late)

Present Jeremy Kuiper

Present David Austgen, Town Attorney

Present Tim Kubiak, Director of Operations

Present Tammy Bilgri, Recording Secretary

**Minutes:**

A motion was made by Jerry Wilkening and seconded by John Kiepura to approve the April 14, 2016 Public Meeting Minutes as presented. Roll Call Vote:3-0

**Old Business:**

**1. Hanover Community School Corp./Building Trades - Developmental Variance**

Owner: Hanover Community School Corp., Building Trades, PO Box 645, Cedar Lake, IN 46303

Petitioner: Hanover Community School Corp., Building Trades, PO Box 645, Cedar Lake, IN 46303

Vicinity: 7430 W. 128<sup>th</sup> Lane, Cedar Lake, IN 46303

Legal Description: The Meadows BL.4 lots 31,32 & W.1/2 of lot 33

Tax Key Number(s): 45-15-23-183-034.000-043

Request: Request: Petitioner is requesting Development Variances from Zoning Ordinance No. 496, Title VIII – Residential (R-2) Zoning, Section 4: Area, Width, and Yard Regulations: B. Front Yard: 4) On all other streets, a distance of thirty (30) feet; **and** D. Rear Yard: There shall be a rear yard of not less than twenty-five percent (25%) of the depth of the lot; **and** E. Building Coverage: Not more than twenty-five percent (25%) of the area of the lot may be covered by buildings and/or structures.

***This Developmental Variance is to allow the Petitioner to have approximately thirty-two percent (32%) lot coverage, front yard setback of twenty (20) feet and rear yard setback of 19.92 feet.***

**Deferred from March 10, 2016 Public Meeting**

**Deferred from April 21, 2016 Public Meeting**

- a) Attorney to Review Legals:
- b) Petitioner's Comments: None
- c) Remonstrators: None
- d) Building Department's Comments: Tim Kubiak stated we received communication from Larry Gutierrez from Hanover Building Trades and he asked for this to be deferred for one more month. Their engineer did not get all the elevations for the drainage plan. This is important as to whether they proceed with one or two houses. Need a natural engineer drainage plan that will show how the drainage will function before we move forward. They are working on the requirement.
- e) Board's Discussion: None

A motion was made by Jeff Bunge and seconded by John Kiepura to defer until the June 9, 2016 meeting.

Eric Olson	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Absent	Yes	Yes	Yes	Yes	4-0

**New Business:**

**1. Cedar Lake MHC, LLC - Developmental Variance**

Owner: Cedar Lake MHC, LLC, 11609 Woodmar Place, Cedar Lake, IN 46303

Petitioner: Paul Kats, 10241 Idlewild Lane, Highland, IN 46322

Vicinity: 9001 W. 133<sup>rd</sup> Place, Cedar Lake, IN 46303

Legal Description: PT. N1/2 NW. S.27 T.34 R.9 6.504A. --X634.30X654.90X186X851.80X351X --X-  
-FT. **and** TRI. PAR. 724.1X22X724.43FT. E. OF CI & L RR NW NW S.27 T.34  
R.9 .18A. PAR. 5 EX . N.120.3FT. **and** IRREG. PAR. VAC. R/W IN NE NW  
BET E. & W. CENT. LINE & N. LINE AVE. A. EXTENDED S.27 T.34 R.9

Tax Key Number(s):     45-15-27-127-005.000-014  
                                  45-15-27-102-001.000-014  
                                  45-15-27-127-013.000-014

Request:                   Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XI-Planned Unit Development (P.U.D.) Zoning District: Section 7: A. District Area Minimum: Ten (10) acres

***This Developmental Variance is to allow the Petitioner a PUD of 7.5 acres***

- a) Attorney to Review Legals: David Austgen stated that the proofs of publication are in evidence, the legal notices are in order and this public hearing may be conducted.
- b) Petitioner’s Comments: William Jansma, 11609 Woodmar Place, Cedar Lake, IN. Have three (3) plats of ground the mobile home park has been used on and they were not all zoned for a mobile home park. Working with the Plan Commission to make it a Planned Unit Development so everything can be part of the mobile home park and be properly zoned. As going through this process to be a Planned Unit Development, found out needs to be ten (10) acres according to ordinance. Requesting a Variance for a 7.5 acre Planned Unit Development.
- c) Remonstrators: None
- d) Building Department’s Comments: Tim Kubiak stated we went through a lot of discussion to figure out this property. The PUD zoning is the best direction to take. They have been to the Plan Commission and gotten preliminary plat for the PUD contingent upon this requirement. We overlooked the 7.5 acre and the Plan Commission was not allowed to waive.
- e) Board’s Discussion: David Austgen stated all the land use approvals will now be unified, this will be a single project, all legal’s connected and the project with one site plan and one zoning to clean it up.

A motion was made by Jeff Bunge and seconded by Jerry Wilkening to grant the developmental variance as requested and to include the findings of fact.

Eric Olson	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Absent	Yes	Yes	Yes	Yes	4-0

**2. Brian Hardesty – Developmental Variance**

Owner:                    Brian Hardesty, 9413 W. 142<sup>nd</sup> Ave., Cedar Lake, IN 46303  
Petitioner:               Brian Hardesty, 9413 W. 142<sup>nd</sup> Ave., Cedar Lake, IN 46303  
Vicinity:                 9413 W. 142<sup>nd</sup> Ave., Cedar Lake, IN 46303  
Legal Description:       Jane Dwan Gardens BL.4 Lots 34 & 35  
Tax Key Number(s):     45-15-34-106-017.000-014

Request:                   Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title VIII-Residential (R-2) Zoning District Section 4: C. 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 yard on any lot shall not be less than twenty percent (20%) of the width of the lot **and** D. there shall be a rear yard not less than twenty-five percent (25%) of the depth of the lot **and** E. Not more than twenty-five percent (25%) of the area of the lot may be covered by buildings/structures.

***This Developmental Variance is to allow the Petitioner to build an attached garage with zero (0) side yard setback, a twenty (20) foot rear yard setback and to exceed lot coverage***

- a) Attorney to Review Legals: David Austgen stated the legal’s were in order and a public hearing can be conducted.
- b) Petitioner’s Comments: Brian Hardesty, 9413 W. 142<sup>nd</sup> Ave., would like to build a garage addition. Not sure if fence is on his property line. Was approved for this two (2) years ago.
- c) Remonstrators: None
- d) Building Department’s Comments: Tim Kubiak stated you can see his house is currently on the zero lot line, the garage is on the property line to the east and he wants to add directly behind the garage. If he tries to shift it over, you would not be able to access the garage that is existing. Cannot give permit unless have an adequate survey defining property lines.
- e) Board’s Discussion: Discussion ensued about clarity of survey. David Austgen stated the burden of proof is on the petitioner. The town will not issue a permit for an improvement where we don’t know exactly where the property line is. The survey provided works for closing loans and mortgage companies. But it does not satisfy building inspectors, such as Tim that are trying to verify that the property is being improved correctly and in the right location without adding additional legal liability. The need for a stake survey that reflects the improvements, reflects the property line and corners so that the property is properly located and the structures on the property are properly located or made and can build what he needs based on complete information. Jeremy Kuiper stated he would need to get a proper survey. John Kiepura stated concern for the zero (0) setback and fire safety. Jeremy Kuiper stated that it is already noncompliant; he is asking to make it more noncompliant.

A motion was made by John Kiepura and seconded by Jeff Bunge to defer to the June 9, 2016 meeting.

Eric Olson	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Absent	Yes	Yes	Yes	Yes	4-0

3. Michael A. Mitok – Developmental Variance

Owner: Michael A. Mitok, 13131-35 Schneider St., Cedar Lake, IN 46303  
Petitioner: Michael A. Mitok, 13131-35 Schneider St., Cedar Lake, IN 46303  
Vicinity: 13131-35 Schneider St., Cedar Lake, IN 46303  
Legal Description: Pt. W.1/2 SW.1/4 S.21 T.34 R.9 (139.77x106x87.16x113.5x185.3ft.) 0.581Ac  
Tax Key Number(s): 45-15-21-352-019.000-014

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XXIII-Accessory Regulations; Section 1: A: 4) No accessory building shall be allowed in the front yard; 5) Minimum six (6) foot setback from any and all side and rear property lines and minimum ten (10) foot separation from all other buildings; 7) Metal and post buildings shall not be permitted in Residential Zoning District

***This Developmental Variance is to allow the Petitioner to have a metal shed in the front yard with a zero (0) side yard setback and a zero set back from house***

- a) Attorney to Review Legals: David Austgen stated that the legal’s are in order and a public hearing may be conducted.
- b) Petitioner’s Comments: Michael Mitok, 13131-35 Schneider St., did not know he needed a permit, built this to protect his vehicles from the elements. Only has a one car garage and put this carport up and put metal sides on it. Wants it close to the breezeway and other garage without having elements come between the two (2). It is eight (8) inches off the house. Does not want it in the backyard, he has no access to the backyard because of Great Oaks.
- c) Remonstrators: None
- d) Building Department’s Comments: Tim Kubiak stated it is an accessory structure in the front yard, a carport sitting in front of the house. Does not want to see this around town. Not a good idea. Accessory building is not allowed in the front yard, there is a ten (10) foot separation for fire safety between buildings. If it was unattached a six (6) foot side yard, attached an eight (8) foot side yard, if this was an actual garage addition to the home with that same existing two (2) foot side yard, could see an actual structure working.
- e) Board’s Discussion: Jeremy Kuiper asked why he needed a zero set back, and if it was a permanent structure. Also concerns for emergency services being able to access the house. Jerry Wilkening asked if it had a garage door on the structure. He stated it is no longer a carport with the sides. John Kiepura stated it is no longer meeting the purpose it was purchased for. This is a garage, not a carport. Also expressed concern with fire safety. David Austgen stated that our law requires this petitioner and others like him to show that our zoning ordinance requirements are an unnecessary hardship and that is his burden. Need to look at that site plan and the circumstances presented and determine if he has met that burden or not. Jerry Wilkening stated concerns with temporary part of it. Jeremy Kuiper asked if there was any other place on the property he could put it that would be compliant. Petitioner stated no, he would have to create a new driveway, does not have a rear entrance. Jeff Bunge asked when he erected this. The petitioner stated last fall, he did not know he needed a permit. David Austgen stated he either needs to bring it into compliance or remove it. Tim Kubiak gave him sixty (60) days to remove it.

A motion was made by John Kiepura and seconded by Jerry Wilkening to deny the developmental variance to allow the Petitioner to have a metal shed in the front yard with a zero (0) side yard setback and a zero (0) set back from the house based on the findings of fact for public safety and based on our current ordinances.

Eric Olson	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Yes	Yes	Yes	Yes	Yes	4-0

4. Thad Nymeyer – Developmental Variance

Owner: Thad Nymeyer, 8545 W. 139<sup>th</sup> Ct., Cedar Lake, IN 46303  
Petitioner: Thad Nymeyer, 8545 W. 139<sup>th</sup> Ct., Cedar Lake, IN 46303  
Vicinity: 8545 W. 139<sup>th</sup> Ct., Cedar Lake, IN 46303  
Legal Description: SHAW'S CEDAR LAKE SUB. L.27 BL.1  
Tax Key Number(s): 45-15-27-460-002.000-014

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title VIII-Residential (R-2) Zoning District; Section 4: B. Front Yard: 4: On all other streets, a distance of thirty (30) feet

***This Developmental Variance is to allow the Petitioner to build a porch in what is considered a front yard that is five feet inches (5'5") from the west property line***

- a) Attorney to Review Legals: David Austgen stated the legals are in order and a public hearing may be conducted.
- b) Petitioner's Comments: Thad Nymeyer, 8545 W. 139<sup>th</sup> Ct., wants to put a porch on the north side of the house.
- c) Remonstrators: None
- d) Building Department's Comments: Tim Kubiak stated the petitioner wants to put a wraparound porch on the house. There is a lot of yard, but it gets close to the road right of way. He has thirty (30) foot of unimproved road in front of his house. Would never think this property would require a variance for a six (6) foot porch, the numbers do not work because of the right of way. The front porch will make the house look a million times better and be a great asset to the neighborhood. We should not need the sixty (60) foot right of way in this area, since it is residential.
- e) Board's Discussion: Jeremy Kuiper asked if it would be fitting in with other properties in the area. Tim Kubiak stated yes. Jeff Bunge asked about the platted center line of Soper Street.

A motion was made by Jerry Wilkening and seconded by John Kiepura to approve the developmental variance as requested and to include the findings of fact.

Eric Olson	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Absent	Yes	Yes	Yes	Yes	4-0

**5. William Herman – Developmental Variance**

Owner: William Herman, 10103 W. 127<sup>th</sup> Pl., Cedar Lake, IN 46303  
Petitioner: William Herman, 10103 W. 127<sup>th</sup> Pl., Cedar Lake, IN 46303  
Vicinity: 10103 W. 127<sup>th</sup> Pl., Cedar Lake, IN 46303  
Legal Description: Monastery Woods Phase 1 Lot 192  
Tax Key Number(s): 45-15-21-253-007.000-014

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title VIII-Residential (R-2) Zoning District; Section 4: D. Rear Yard: there shall be a rear yard on not less than twenty-five percent (25%) of the depth of the lot

***This Developmental Variance is to allow the Petitioner to build a twenty-one foot (21') x twenty-five (25') deck over an existing concrete patio with a rear yard setback of approximately fifteen (15) feet and lot coverage over twenty-five percent (25%)***

- a) Attorney to Review Legals: David Austgen stated the legal's are in order and a public hearing may be conducted.
- b) Petitioner's Comments: William Herman, 10103 W. 127<sup>th</sup> Pl., wants to build a deck over the existing concrete.
- c) Remonstrators: None
- d) Building Department's Comments: Tim Kubiak stated it is a ranch type house and virtually that deck would be twelve (12) inches above where that patio is now, he is basically putting wood flooring on top of an existing concrete patio.
- e) Board's Discussion: Jeremy Kuiper asked the dimensions of the existing concrete pad. William Herman stated approximately twenty (20) by twenty-four (24). Discussion about lot coverage and rear yard setbacks. Jeremy Kuiper asked if the ordinance was going to change. Tim Kubiak stated that in our new ordinance we are trying to eliminate decks as a common structure on lot coverage. Jeremy Kuiper stated so if the new ordinance was in place, Mr. Herman would not have to be here.

A motion was made by John Kiepura and seconded by Jerry Wilkening to approve the developmental variance as presented and to include the findings of fact.

Eric Olson	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Absent	Yes	Yes	Yes	Yes	4-0

**6. James Casten – Development Variance**

Owner: James Casten, 13025 Dodge St., Cedar Lake, IN 46303  
Petitioner: James Casten, 13025 Dodge St., Cedar Lake, IN 46303  
Vicinity: 13025 Dodge St., Cedar Lake, IN 46303  
Legal Description: MEYER MANOR TERRACE (REPLAT OF BL. 12) LOT 2  
Tax Key Number(s): 45-15-22-329-002.000-014

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XXIV-Swimming Pool; Section 3: Location: No 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 any other location where a “structure” is prohibited. **and** Title XXI-Fence Regulations; Section 1: A. 1) No fence shall be located in the front yard. **and** Title XXIII-Accessory Regulations; Section 1: A: 4) No accessory building shall be allowed in the front yard of any residential lot.

***This Developmental Variance is to allow the Petitioner to put a pool, shed, and five (5) feet rod iron fence in what is considered a front yard, with distance of five (5) feet between shed and pool***

- a) Attorney to Review Legals: David Austgen stated the legal’s are in order and the public hearing may be conducted.
- b) Petitioner’s Comments: James Casten, 13025 Dodge St., would like to have pool and shed with a nice fence around it to meet code.
- c) Remonstrators: None
- d) Building Department’s Comments: Tim Kubiak stated this is one of those weird deals where their front yard and rear yard are both facing on a road.
- e) Board’s Discussion: Jeremy Kuiper asked if there was a reason the accessory structure needed to be so close to the pool and how big is the proposed accessory structure. The petitioner stated no, just for accessibility to put rafts and chairs inside and it is 10’ x 12’. Discussion ensued about location of pool and shed and if they can maintain the ten (10) feet between structures.

A motion was made by Jeff Bunge and seconded by John Kiepura to approve the developmental variance of a pool, shed and five (5) feet wrought iron fence in what is considered a front yard with a request of ten (10) feet to remain between the shed and the pool and to include the findings of fact.

Eric Olson	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Absent	Yes	Yes	Yes	Yes	4-0

**7. Bruce Jobb - Developmental Variance**

Owner: Bruce Jobb, 16WS41 Timberlake Dr., Willowbrook, IL 60527  
Petitioner: Bruce Jobb, 16WS41 Timberlake Dr., Willowbrook, IL 60527  
Vicinity: 13701 Lauerman, Unit 69, Cedar Lake, IN 46303  
Legal Description: Cedar Lake Ministries Lot 67 & Oulot 67  
Tax Key Number(s): 45-15-27-129-028.000-014

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title VIII-Residential (R-2) Zoning District; Section 4: B. Front Yard: 4) On all other streets, a distance of thirty (30) feet

***This Developmental Variance is to allow the Petitioner to have a front yard setback of three (3) feet to extend existing deck to a permanent structure***

- a) Attorney to Review Legals: David Austgen stated the legal’s are in order and the public hearing may proceed.
- b) Petitioner’s Comments: Bruce Jobb, Unit 69, Cedar Lake Conference Grounds. Would like to put a room addition onto house 10’ x 12’. Basically an entryway. Existing deck is 6’ x 12’. His board said he could do this project.
- c) Remonstrators: Mark Rod, 13701 Lauerman, Unit 72, thinks he is for the project because he was confused as to what was being built. Concern for neighbor’s view of the lake, if an addition is added.
- d) Building Department’s Comments: Tim Kubiak stated he currently has thirteen (13) feet from the front of the house to the property line. Is asking to enclose the entryway and make this out another two (2) foot. Is asking for a front yard setback of three (3) foot. Can tell there is some confusion among the board on the request. His request is extending a deck to a permanent structure.
- e) Board’s Discussion: Discussion on clarification of what kind of structure he is asking for. Jeremy Kuiper asked if his intention is to build a permanent structure off of the house to extend an additional three (3) feet from where it is. Tim Kubiak asked if he received an approval letter from the conference grounds. Mr. Jobb presented the board with a copy of the approval letter for the file.

A motion was made by Jerry Wilkening and seconded by Jeff Bunge to defer to the June 9, 2016 Public Meeting.

Eric Olson	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Absent	Yes	Yes	Yes	No	3-1

**8. Adam & Heather Ward - Developmental Variance**

Owner: Adam & Heather Ward, 13709 Austin St., Cedar Lake, IN 46303  
Petitioner: Adam & Heather Ward, 13709 Austin St., Cedar Lake, IN 46303  
Vicinity: 13709 Austin St., Cedar Lake, IN 46303  
Legal Description: Winding Creek Estates Unit 2 Lot 95  
Tax Key Number(s): 45-15-27-332-006.000-014

Request:                   Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title VIII-Residential (R-2) Zoning: SECTION 4: E. Building Coverage: Not more than twenty-five percent (25%) of the area of the lot may be covered by buildings and/or structures and D. Rear yard: there shall be a rear yard on not less than twenty-five percent (25%) of the depth of the lot

***This Developmental Variance is to allow the Petitioner to build a home with a lot coverage of over twenty-five percent (25%); with a rear yard setback of approximately twenty-two feet (22')***

- a) Attorney to Review Legals: David Austgen stated the legal's are in order and a public hearing may proceed
- b) Petitioner's Comments: Adam Ward, 13709 Austin St., want to put a house up that is one hundred (100) sq ft over the twenty-five (25) percent. The rear yard setback the twenty-two (22) feet is just for the porch. The house itself will be within the ordinance, just a variance to put a 12' x 12' covered porch on the back. Porch was not going to be enclosed.
- c) Remonstrators: None
- d) Building Department's Comments: Tim Kubiak stated the house is actually one hundred (100) square feet over the lot coverage, but the rear porch made him two hundred and forty (240) feet over the lot coverage. The rear porch sunroom these days seems to be essential to every new house being built. Everyone that puts one on any of these with this depth of the lot is required to get a variance. We are working on changing our minimum lot depth to one hundred thirty-five (135) feet in the ordinance, which allows for this to happen in the rear yard without a variance.
- e) Board's Discussion: Jeremy Kuiper expressed concern with putting an accessory building in the back.

A motion was made by Jeff Bunge and seconded by Jerry Wilkening to grant the developmental variance as requested, stipulating there be no further accessory buildings or structures allowed in the rear yard and to include the findings of fact.

Eric Olson	Jerry Wilkening	John Kiepora	Jeff Bunge	Jeremy Kuiper	Vote
Absent	Yes	Yes	Yes	Yes	4-0

9. Eric Widstrand-Developmental Variance

Owner:                   Eric Widstrand, 9911 Flagstaff St., Cedar Lake, IN 46303  
Petitioner:             Eric Widstrand, 9911 Flagstaff St., Cedar Lake, IN 46303  
Vicinity:               9911 Flagstaff St., Cedar Lake, IN 46303  
Legal Description:     Centennial Sub. Phase 4 Lot 18  
Tax Key Number(s):   45-15-28-480-004.000-014

Request:                   Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XXI-Fence Regulations; Section 1: A. 1) No fence shall be located in the front yard; 2) No fence shall exceed six feet (6') in height; 4) Fences placed on berms in any yard shall have their maximum height established based upon the distance to the top of fence from elevation of the grade of the lot before installation of the berm, and reducing the fence height by the additional height created by the berm

***This Developmental Variance is to allow the Petitioner to have a fence in what is considered a front yard with a maximum height of seven (7') feet due to berm on 141<sup>st</sup> Avenue***

- a) Attorney to Review Legals: David Austgen stated the legal's are in order and the public hearing may be conducted.
- b) Petitioner's Comments: Eric Widstrand, 9911 Flagstaff St., want to put a fence in back yard, which is considered a front yard because it is on 141<sup>st</sup> Avenue. The fact that the developer put the berm on the other side of the twenty (20) foot drainage easement, cuts the yard in half. The berm starts on the easement and goes up and is a foot higher, the reason for the seven (7) foot fence.
- c) Remonstrators: Craig Lorenzen, 9919 Flagstaff St., is in favor of the fence. Connie Martisek, 9903 Flagstaff St., is in favor of the fence.
- d) Building Department's Comments: Tim Kubiak stated we have been permitting these fences even though they are fronting on 141<sup>st</sup> because there is such a large landscape berm, twenty (20) foot easement, there is a line on the northern side of the twenty (20) foot easement because it is fifty (50) plus feet off the sidewalk. We just picked that line and said if you want to put it there, these guys are rebels and wanted twenty (20) more feet of rear yard. Two neighbors are here asking for the same thing. Essentially it is still far off the road and the no fence in the front yard causes a hardship. Now if you put it on this part of the hill it does make it a bit taller because of the berm and also twenty (20) feet closer to the road. The neighboring house put up his fence in the middle of the easement, we don't allow fences in the easement. He did get a permit, but did not get a final inspection. He is here also to try to correct his issue. The hardship is they have two (2) front yards and their lot actually goes to the sidewalk, they are losing sixty (60) feet of their yard.

- e) Board's Discussion: John Kiepura asked about height of fence. It is a six (6) foot fence, but because of the berm it will be seven (7) feet tall.

A motion was made by Jerry Wilkening and seconded by John Kiepura to approve the developmental variance as presented and to include the findings of fact.

Eric Olson	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Absent	Yes	Yes	Yes	Yes	4-0

10. Melissa Gonzalez - Developmental Variance

Owner: Melissa Gonzalez, 9919 Flagstaff St., Cedar Lake, IN 46303  
Petitioner: Melissa Gonzalez, 9919 Flagstaff St., Cedar Lake, IN 46303  
Vicinity: 9919 Flagstaff St., Cedar Lake, IN 46303  
Legal Description: Centennial Sub. Phase 4 Lot 17  
Tax Key Number(s): 45-15-28-480-003.000-014

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XXI-Fence Regulations; Section 1: A. 1) No fence shall be located in the front yard; 2) No fence shall exceed six feet (6') in height; 4) Fences placed on berms in any yard shall have their maximum height established based upon the distance to the top of fence from elevation of the grade of the lot before installation of the berm, and reducing the fence height by the additional height created by the berm

***This Developmental Variance is to allow the Petitioner to have a fence in what is considered a front yard with a maximum height of seven (7') feet due to berm on 141<sup>st</sup> Avenue***

- a) Attorney to Review Legals: David Austgen stated that the legal's are in order for public hearing to be properly conducted.  
b) Petitioner's Comments: Craig Lorenzen, 9919 Flagstaff St., fence was constructed in September 2015, fence was in violation. Wants the variance to correct the situation.  
c) Remonstrators: Eric Widstrand, 9911 Flagstaff St., in favor. Connie Martisek, 9903 Flagstaff St., in favor.  
d) Building Department's Comments: None  
e) Board's Discussion: None

A motion was made by John Kiepura and seconded by Jerry Wilkening to approve the developmental variance as requested and to include the finds of fact.

Eric Olson	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Absent	Yes	Yes	Yes	Yes	4-0

11. Adam & Connie Martisek – Developmental Variance

Owner: Adam & Connie Martisek, 9903 Flagstaff St., Cedar Lake, IN 46303  
Petitioner: Adam & Connie Martisek, 9903 Flagstaff St., Cedar Lake, IN 46303  
Vicinity: 9903 Flagstaff St., Cedar Lake, IN 46303  
Legal Description: Centennial Sub. Phase 7 Lot 19  
Tax Key Number(s): 45-15-28-480-005.000-014

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XXI – Fence Regulations: Section 1: A. 1) No fence shall be located in the front yard; 2) No fence shall exceed six feet (6') in height; 4) Fences placed on berms in any yard shall have their maximum height established based upon the distance to the top of fence from the elevation of the grade of the lot before installation of the berm, and reducing the fence height by the additional height created by the berm

***This Developmental Variance is to allow the Petitioner to have a fence in what is considered a front yard with a height over six (6) feet due to berm on 141<sup>st</sup> Avenue***

- a) Attorney to Review Legals: David Austgen stated legal's are in order and the public hearing may be conducted.  
b) Petitioner's Comments: Connie Martisek, 9903 Flagstaff St., basically saying same thing as previous two petitioners.  
c) Remonstrators: Eric Widstrand, 9911 Flagstaff St., in favor. Craig Lorenzen 9919 Flagstaff St., in favor.  
d) Building Department's Comments: None  
e) Board's Discussion: None

A motion was made by Jeff Bunge and seconded by John Kiepura to approve the developmental variance as requested with a maximum height of seven (7) ft and to include the findings of fact.

Eric Olson	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Absent	Yes	Yes	Yes	Yes	4-0

**12. Tom Taylor – Developmental Variance**

Owner: Tom Taylor, 14801 Clark St., Crown Point, IN 46307  
Petitioner: Tom Taylor, 14801 Clark St., Crown Point, IN 46307  
Vicinity: 13221 Colfax St., Cedar Lake, IN 46303  
Legal Description: E.110FT OF S.60RDS. EX. S.350FT. OF SE SE S.23 T.34 R.9 1.386A.  
Tax Key Number(s): 45-15-23-478-001.000-043

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title VIII-Residential (R-2) Zoning District; Section 4: B. Front Yard: 4) On all other streets, a distance of thirty (30) feet **and** D. Rear Yard: there shall be a rear yard on not less than twenty-five (25) percent

***This Developmental Variance is to allow the Petitioner to have a twenty (20) foot front yard setback and a rear yard setback of less than twenty-five percent (25%) of the depth of the lot***

- a) Attorney to Review Legals: David Austgen stated that the legal's are in order and a public hearing may be conducted.
- b) Petitioner's Comments: Tom Taylor, 14801 Clark St., Crown Point, IN 46307, we have granted a ten (10) foot right of way to the town and we need to get the variance because of that.
- c) Remonstrators: None
- d) Building Department's Comments: Tim Kubiak stated they brought this to the plan commission; there was only a twenty (20) foot platted right of way on Colfax St., so the plan commission requested that additional ten (10) foot right of way for utilities. By doing that, these lots are not very deep, so we proposed to Mr. Taylor that he would dedicate the additional ten (10) foot right of way and then ask for that twenty (20) foot front yard setback. The lots are only ninety (90) feet in depth and one hundred seventy-five (175) wide. The request was also for a twenty (20) foot rear yard.
- e) Board's Discussion: Jeff Bunge asked how many lots. There would be three (3). It is currently one lot and will be made into three (3) additional lots.

A motion was by John Kiepura and seconded by Jerry Wilkening to approve the developmental variance as presented and to allow the petitioner to have twenty (20) foot front yard and rear yard setback of less than twenty-five (25) feet at twenty (20) feet and to include the findings of fact.

Eric Olson	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Absent	Yes	Yes	Yes	Yes	4-0

**13. Mark Lesniak – Use Variance**

Owner: Cedar Lake Ventures, 3030 Forest Park Dr., Dyer, IN 46311  
Petitioner: Mark Lesniak, 10307 Silvermaple Dr., St. John, IN 46373  
Vicinity: 13300 Lincoln Plaza, Cedar Lake, IN 46303  
Legal Description: S.56.46ft of N.106.46ft of W.185ft of E.505.02ft of E.1/2 NE.1/4 S.28 T.34 R.9 . 284Ac subj. to easement  
Tax Key Number(s): 45-15-28-228-001.000-014

Request: Petitioner is requesting a Use Variance from Zoning Ordinance No. 496, Title XII-Neighborhood Business B-1 Zoning District; Section 2: B.; 25. Restaurants, or Cafes (excluding dancing or entertainment and restaurants of a drive-in nature and establishments serving alcoholic beverage)

***This Use Variance is to allow the Petitioner to have Entertainment and Alcohol***

- a) Attorney to Review Legals: David Austgen stated the legal's are in order and the public hearing may be conducted.
- b) Petitioner's Comments: Mark Lesniak, 10307 Silvermaple Dr., St. John, IN and Melissa Miller. A variance to serve liquor and entertainment. Will be an eatery and pub with family dinning until 8:00 p.m., non-smoking, entertainment would be acoustic or bands on the weekends, during the week would be piano or acoustic all indoor. Full scale restaurant and pub. Proposed hours of operation Sunday, Monday, Tuesday, open 11:00 a.m. - 11:00 p.m., Thursdays till 12:00 – 1:00, Fridays and Saturdays closing at 2:00 a.m. proposed occupancy is 148. Parking is mutual use from Strack & Van Til Parking lot, a total of 413 parking spaces. The plans are still at the architect at state. They are in their final approval stages now. They have a document filed with Lake County on parking easements.



- c) Remonstrators: Terry McDermott, 13315 Lincoln Plaza, has dental office across the street. Be a dental office for sixty-two (62) years and patients have always parked there. Zoned business neighborhood, does not seem to fit into this area. Does not want his patients to go to Strack & Van Til to park. They only have four parking spaces in front of their building. There are twelve (12) parking spaces for six (6) businesses. Keith Piszro, Southside Pizza. Has an independent building and parking lot. He purchased this, he does not know anything about these agreements, and he was told it is his parking lot. Is not going to let them park in his parking lot to go somewhere else. Will people really walk from Strack & VanTil. This whole area is a big mess. His lot belongs to him, he joined them together and they are one (1) parcel. Does not think it will fit in the area. First thing that was brought up to him when he purchased the building was there enough parking for a restaurant.
- d) Building Department's Comments: Tim Kubiak stated he met with Mr. Lesniak a month ago and asked for a parking plan. A plan of what they intend on doing and also some type of layout of the inside of the building, so we can start looking at where the parking is going to be. Have not received anything. Have not even seen a concept drawing. In order to serve alcohol need B-1 zoning and this building is B-2.
- e) Board's Discussion: John Kiepura and Jeff Bunge expressed concern with parking. Need to research parking. Jeremy Kuiper stated it is hard to make a decision without seeing any type of plan. David Austgen stated the burden is on the petitioner to show this board and the Town Council what satisfies them under their code, to consider your approval. Jeremy Kuiper stated there are more questions than answers at this point. The feeling from the board is we need more information about your intentions, plans, parking plans, a conceptual layout, proposed hours of operation, is required for this board to make an informed decision
- f) Recommendation to Town Council: None

A motion was made by Jerry Wilkening and seconded by Jeff Bunge to defer this Use Variance to the June 9, 2016 Public Meeting.

Eric Olson	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Absent	Yes	Yes	Yes	Yes	4-0

14. Monastery Woods – Developmental Variance

Owner: Monastery Woods Development, LLC, c/o Richard E. Anderson, 9211 Broadway, Merrillville, IN 46410

Petitioner: Monastery Woods Development, LLC, c/o Richard E. Anderson, 9211 Broadway, Merrillville, IN 46410

Vicinity: 13044 Grasselli St., Cedar Lake, IN 46303  
13040 Grasselli St., Cedar Lake, IN 46303  
10008 W. 129<sup>th</sup> Pl., Cedar Lake, IN 46303  
10004 W. 129<sup>th</sup> Pl., Cedar Lake, IN 46303  
9932 W. 129<sup>th</sup> Pl., Cedar Lake, IN 46303  
9926 W. 129<sup>th</sup> Pl., Cedar Lake, IN 46303  
9920 W. 129<sup>th</sup> Pl., Cedar Lake, IN 46303  
9912 W. 129<sup>th</sup> Pl., Cedar Lake, IN 46303  
9906 W. 129<sup>th</sup> Pl., Cedar Lake, IN 46303  
9900 W. 129<sup>th</sup> Pl., Cedar Lake, IN 46303  
10035A W. 130<sup>th</sup> Ln., Cedar Lake, IN 46303  
10035B W. 130<sup>th</sup> Ln., Cedar Lake, IN 46303  
10035C W. 130<sup>th</sup> Ln., Cedar Lake, IN 46303  
10035D W. 130<sup>th</sup> Ln., Cedar Lake, IN 46303  
13040C Grasselli St., Cedar Lake, IN 46303

Legal Description: Monastery Woods Cottage Homes Lot 1 and  
Monastery Woods Cottage Homes Lot 2 and  
Monastery Woods Cottage Homes Lot 20 and  
Monastery Woods Cottage Homes Lot 21 and  
Monastery Woods Cottage Homes Lot 22 and  
Monastery Woods Cottage Homes Lot 23 and  
Monastery Woods Cottage Homes Lot 24 and  
Monastery Woods Cottage Homes Lot 25 and  
Monastery Woods Cottage Homes Lot 26 and  
Monastery Woods Cottage Homes Lot 27 and  
Monastery Woods Phase 2 Pt of Lot 293 (10035-A) W. 130th Ln) Ex. W/ly 10ft and  
Monastery Woods, Phase 2 Pt of Lot 293 (10035-B) W. 130th Ln) and  
Monastery Woods, Phase 2 Pt of Lot 293 (10035-C) W. 130th Ln) and  
Monastery Woods, Phase 2 Pt of Lot 293 (10035-D) W. 130th Ln) and  
Monastery Woods Phase 2 S.30.0ft of Lot 294 and

Tax Key Number(s): 45-15-21-406-018.000-014  
45-15-21-406-017.000-014  
45-15-21-405-002.000-014  
45-15-21-405-003.000-014  
45-15-21-405-004.000-014  
45-15-21-405-005.000-014  
45-15-21-405-006.000-014  
45-15-21-405-007.000-014  
45-15-21-405-008.000-014  
45-15-21-405-009.000-014  
45-15-21-401-041.000-014  
45-15-21-401-042.000-014  
45-15-21-401-043.000-014

45-15-21-401-044.000-014  
45-15-21-401-040.000-014

Request: Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title VIII-Residential (R-2) Zoning District; Section 4: 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 X-Residential Multiple-Family (RM) Zoning District; Section 4: D. Rear Yard: There shall be a rear yard of not less than thirty (30) feet.

***This Developmental Variance is to allow the Petitioner to reduce rear yard setback from thirty (30) feet to twenty-five (25) feet***

- a) Attorney to Review Legals: David Austgen stated the legals are in order.
- b) Petitioner’s Comments: Richard Anderson, 9211 Broadway, Merrillville, IN 46410. Basically what we have is the Monastery Woods South Subdivision; this was developed in 2006, and as time went on and the market changed these lots have been rezoned from townhouses to cottage homes. The easement along 129<sup>th</sup> is twenty-five (25), the setback is thirty (30), because of the fact we changed the lots, we didn’t have the ability to make the lots exactly what they would be for a cottage home. It is the unit with the open porch that is not able to be built here with the thirty (30) foot rear yard. The difficulty is when these lots were developed they were not cottage home lots.
- c) Remonstrators: None
- d) Building Department’s Comments: Tim Kubiak this is for that 12’x12’ covered porch. The house fits on the property without any problem, but that porch in the rear does not. This comes in as my recommendation, because every person that comes in there is going to want that on that lot. There are maybe only two (2) or three (3) that don’t have them.
- e) Board’s Discussion: Jeremy Kuiper asked if there are accessory buildings out there. Tim Kubiak stated they have covenants against that. Mr. Anderson stated also no fences. John Kiepura asked about sidewalks. Mr. Anderson stated the sidewalk was put across the street on Monastery Woods North that was an agreement done with the town. Discussion on future berms ensued.

A motion was made by Jerry Wilkening and seconded by John Kiepura to approve the developmental variance as requested and to include the findings of fact.

Eric Olson	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Absent	Yes	Yes	Yes	Yes	4-0

15. Henn’s Transportation & Warehousing, LLC - Developmental Variance

Owner: Richard and Robert Henn, Henn's Transportation & Warehousing, LLC, 13733 Wicker Ave., Cedar Lake, IN 46303

Petitioner: Richard Henn, 13733 Wicker Ave., Cedar Lake, IN 46303

Vicinity: 13109 Wicker Ave., Cedar Lake, IN 46303

Legal Description: W.280FT & S.100FT LYG E OF W 280 FT OF PAR 531.9X495.3X534X495.3FT NW SW S.21 T. 34 R.9 EX TRI PAR 3.619A & TRI PAR 100X162.55X 127.25FT. .146A. **and** E. 7A. OF N. 30RDS. OF S. 130RDS. OF W. 80RDS. OF SW. S.21 T.34 R.9 7A. **and** PT. N. 25A. OF NE. SW. LY'G W. OF 1.H. RR. & S. OF LINE 495FT. S. OF N. LINE N. 25A. S.21 T.34 R.9 1.766A. **and** PT. N1/2 SW ADJ. W. LINE CI & S.R.R 667.38X299.72X237X160.45X403.62X 139.25FT. S .21 T.34 R.9 3.024A. **and** EAST 424.50 OF THE W 923.90 OF THE NORTH 525.90 OF THE SOUTH 1659.25FT EX. S145. 40 OF THE E 212.20FT. SW1/4 S.21 T.34 R.9 4.417 AC. SUBJ. TO ROAD EASM'T **and** E.249.7ft of W.499.49ft. of N.204ft of S.1329.01ft of SW.1/4 S.21 T.34 R.9 1.153 Ac **and** S. 50FT. OF N. 330FT. OF S. 1650 FT. OF W. 499.4FT. OF W1/2 SW. 50X499.4FT. E. 1 6FT. PUBLIC HWY S.21 T.34 R.9 .564A.

Tax Key Number(s): 45-15-21-301-006.000-014 **and** 45-15-21-301-016.000-014 **and** 45-15-21-326-002.000-014 **and** 45-15-21-326-003.000-014 **and** 45-15-21-301-015.000-014 **and** 45-15-21-351-002.000-014 **and** 45-15-21-301-014.000-014

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title VIII-Residential Zoning District; Section 4: A. A lot area of not less than ten thousand (10,000-100’x100’) square feet, and a lot width of not less than ninety feet (90’) at the building line shall be provided for every building or other structure erected or used for any use permitted in this district. Corner lot areas of not less than eleven thousand (11,000-100”x110’) square feet, and a lot width of not less than ninety feet (90’) at the building line shall be permitted for every building or other structure erected or used for any use permitted in this district. **and** Title XIII-Community Business (B-2) Zoning District: Section 5: A. A minimum lot area of not less than ten thousand (10,000) square feet, and a lot width of not less than eighty (80) feet at the building line shall be provided for every building or other structure erected or used for any use permitted in this Zoning District. In the case of a Development Plan, the heights of buildings and other structures erected or enlarged in this Zoning District, and

area, width, yard and building coverage requirements therefore, shall be as specified on or in connection with the aforesaid Developmental Plan.

***This Developmental Variance is to allow the Petitioner a frontage of fifty feet (50')***

- a) Attorney to Review Legals: David Austgen stated he is unable to verify that the legal's are in order for this, please proceed with the public the hearing and I will. There are dozens of names on the list I need to check.
- b) Petitioner's Comments: Robert Henn, 13733 Wicker Ave., the storage is currently in front of the Plan Commission. Here tonight for Parcel 2, which is the parcel south of the private road, sandwiched between the strip mall and After Four Club. That parcel does not front on a dedicated street, however the road does and we are seeking a variance for that parcel to utilize that fifty (50) feet in the front. No intention to improve the road.
- c) Remonstrators: Richard Zarr, 10905 W. 129<sup>th</sup> Ave., doesn't have a problem with the storage area, but with the water runoff.
- d) Building Department's Comments: Tim Kubiak stated the fifty (50) foot at 41 is part of the new lot 2. So in order for them to do a subdivision they are taking seven (7) parcels and subdividing them to two (2). Lot 1 has frontage on 129<sup>th</sup>, lot 2 has frontage on 41. The minimum lot frontage in our ordinance is eighty (80) feet and they have fifty (50) feet. They are asking to subdivide a parcel with fifty (50) foot road frontage. They will also have an access agreement to get through for Great Oaks and an access agreement for lot 1. This fifty (50) foot from 41 back will actually be the road frontage of this parcel. Essentially it is called a flag lot, you have the narrow entry and then the lot in the rear. They do meet the size requirements and the other requirements of the ordinance.
- e) Board's Discussion: Jeremy Kuiper discussed this being in front of the Plan Commission now. David Austgen asked if we need the cross access agreements now. Mr. Henn stated they would have them at the Plan Commission. David Austgen stated this approval should be contingent upon Plan Commission decision. He also asked if they would be asking for waivers from the paving requirements for subdivision control.

A motion was made by John Kiepura and seconded by Jeff Bunge to approve the developmental variance as requested contingent on Plan Commission Subdivision Plat approval and verification of legal notices and to include the findings of fact.

Eric Olson	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Absent	Yes	Yes	Yes	Yes	4-0

**Public Comment:** None

**Adjournment:** Time: 9:38 p.m.

**Press Session:** Board of Zoning Appeals Meeting – June 9, 2016 at 7:00pm

*The Town of Cedar Lake is subject to the requirements of the Americans with Disabilities Act of 1990. Individuals with disabilities who plan to attend this meeting and who require certain accommodations in order to allow them to observe and/or participate in this meeting, or who have questions regarding accessibility of the meeting or the facilities, please contact the Town Hall at (219) 374-7400.*

\_\_\_\_\_  
Eric Olson

\_\_\_\_\_  
Jeff Bunge, Vice Chairman

\_\_\_\_\_  
Jerry Wilkening

\_\_\_\_\_  
Jeremy Kuiper, Chairman

\_\_\_\_\_  
John Kiepura

\_\_\_\_\_  
Attest: Tammy Bilgri, Recording Secretary