



**TOWN OF CEDAR LAKE
BOARD OF ZONING APPEALS
PUBLIC MEETING
MINUTES
July 14, 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

Absent Jeremy Kuiper

Present David Austgen, Town Attorney

Present Tim Kubiak, Director of Operations

Present Tammy Bilgri, Recording Secretary

Others present: Michelle Bakker and Robert Carnahan

Minutes:

A motion was made by John Kiepura and seconded by Jerry Wilkening to approve the May 12, 2016 Public Meeting and June 9, 2016 Public Meeting minutes as presented. Vote: 3-0

Old Business:

1. Brian Hardesty – Developmental Variance

Owner: Brian Hardesty, 9413 W. 142nd Ave., Cedar Lake, IN 46303
Petitioner: Brian Hardesty, 9413 W. 142nd Ave., Cedar Lake, IN 46303
Vicinity: 9413 W. 142nd 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

Deferred from May 12, 2016 Public Meeting
Deferred from June 9, 2016 Public Meeting

- a) Attorney to Review Legals: None
- b) Petitioner's Comments: Brian Hardesty stated he looked into leasing his neighbor's property and never heard back from him. Asked if he could move it over instead. He stated he could start at one (1) foot and go to three (3) foot maximum. If went two (2) foot he would go down to thirteen (13) foot wide. If start at one (1) foot go to fourteen (14) foot wide and three (3) foot could go twelve (12) foot wide. If he did a 12 x 14 his lot coverage would be about thirty-four (34) percent.
- c) Remonstrators: None
- d) Building Department's Comments: Tim Kubiak stated he talked to Brian and it was his recommendation to try to gain some type of a side yard. The three (3) foot side yard is improving upon what is there.
- e) Board's Discussion: Jeff Bunge stated it would be three feet from the rear corner and twelve (12) feet wide. Jerry Wilkening asked if the current garage is on the property line. Mr. Hardesty stated five (5) and half inches from the property line. Discussion on how far to go from the property line ensued.

A motion was made by Jerry Wilkening to approve the Developmental Variance to build an attached garage with a three (3) foot side yard and a twenty (20) foot rear yard setback and to exceed lot coverage.

Motion died due to lack of a second.

Eric Olson	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote

Mr. Hardesty requested a deferral to the next meeting.

A motion was made by Jerry Wilkening and seconded by John Kiepura to defer to the August 11, 2016 meeting.

Eric Olson	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Absent	Yes	Yes	Yes	Absent	3-0

2. David MacLean – Developmental Variance

Owner: Leo Koerzendoerfer, 1821 Stanton, Whiting, IN 46394
Petitioner: David MacLean, 133 W. Lakeview Dr., Lowell, IN 46356
Vicinity: 12917 Knight St., Cedar Lake, IN 46303
Legal Description: SHADES ADD. CEDAR LAKE PLAT AA ALL LOT'S 76 & 77, BL.2
Tax Key Number(s): 45-15-23-331-001.000-043

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title VIII-Residential (R-2) Zoning District: Section 4: B: Front Yard: Each lot shall front on a dedicated and improved street. Each front yard in this Residential Zoning District shall extend across the full width of the zoning lot and lying between the lot line which fronts on a street on which the main entrance to said building exists. 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; E. Building Coverage: Not more than twenty-five percent (25%) of the area of the lot may be covered by buildings and/or structures; Section 5: 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.

This Developmental Variance is to allow the Petitioner to have lot coverage over twenty-five percent (25%), build a garage less than four hundred (400) sq. ft. with front yard setback on Knight St., of fifteen (15) feet and front yard setback on 129th St., of eight (8) feet

Deferred from May 12, 2016 Public Meeting
Deferred from June 9, 2016 Public Meeting

- a) Attorney to Review Legals: None
- b) Petitioner’s Comments: David MacLean stated he submitted a copy of the plans. He drew four different sets of plans, looking for recommendation.
- c) Remonstrators: Rocco and Kristen DeLuca, 12923 Knight St, concerns with narrow road and house being too close. Thinks the town should acquire lots to widen the road. Just to the west of Knight Street on 129th Place there is a hill. It is of significant grade, that if a vehicle is traveling uphill or downhill you cannot see who is coming at you. Have to pull off to pass other cars. Need sidewalks, nowhere for kids on bicycles to go. If the garage is facing Knight Street there are electrical poles that have anchors.
Jeff Nagel the investor who sold to the DeLucas. His concern is with the value of the area. Talked to two (2) realtors and thought they were unbuildable lots. Thinks a house would be crunched in on that lot.
- d) Building Department’s Comments: Tim Kubiak stated there are some houses in close proximity to the road. Thinks he brought in too big of a house for the lot. All for the redevelopment and fixing up of these lots. This one is unique because it is a corner lot and has the set back issues. Obviously if anything does get built on there, it will need some variances.
- e) Board’s Discussion: John Kiepura stated concerns with if they widen the road in the future, how would they do it if his house is that close to the road. Also agrees with Tim that the house is too big for that piece of property. Thinks that piece of land is unbuildable. Jeff Bunge stated as Tim said, any type of building on it would need a variance. He also stated Mr. MacLean would need to make a decision on which plan the board should vote on. Discussion on the various plans ensued. Michelle Bakker stated he could defer and come back with a different plan for a smaller house. Tim Kubiak stated he thinks need to have the proper house he is going to put there and then ask for the proper variances he would need to make that house work on the lot. David Austgen stated on his best night, he could get an approval, but would still need to go for a variance for the rear yard, so you don’t have anything on your best night. What you should consider doing is giving this board the complete picture the full project that you want to build with all the variances in it. So they can make and act on the totality of circumstances not a piece and then another piece. Mr. MacLean asked if he could add a request for a variance for the next meeting. David Austgen stated he would have to advertise. Michelle Bakker stated he needs to listen to what the board said about the setbacks and what they want to see. Needs a plan that will help these issues out. John Kiepura stated his best bet would be to start all over once he gets a house plan that would work. So drop this request and come back with a plan that works. Take into consideration what the neighbors said about the narrow street, so whatever you do doesn’t impede what they have now. Mr. MacLean asked if the town is going to buy everyone’s property and extend the street out. Can the town just say they are going to take eight (8) feet of everybodys yard to extend the road. David

Austgen stated that possibility always exists. Jeff Bunge stated find a plan that works and come back. Mr. MacLean decided to remove this from the agenda.

A motion was made by John Kiepura and seconded by Jerry Wilkening to remove the item from the agenda as requested by the petitioner.

Eric Olson	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Absent	Yes	Yes	Yes	Absent	3-0

New Business:

1. Lester and Lynn Inman – Developmental Variance

Owner: Lester and Lynn Inman, 6407 W. 128th Lane, Cedar Lake, IN 46303
Petitioner: Lester and Lynn Inman, 6407 W. 128th Lane, Cedar Lake, IN 46303
Vicinity: 6407 W. 128th Lane, Cedar Lake, IN 46303
Legal Description: Krystal Oaks Estates Lot 26
Tax Key Number(s): 45-15-23-282-014.000-043

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XXIII-Accessory Regulations; A. 5) There shall be a minimum six (6) foot setback from any and all side and rear property lines and a minimum ten (10) foot separation or distance from all other buildings.

This Developmental Variance is to allow the Petitioner to have a shed with a zero (0') foot setback from the house

- a) Attorney to Review Legals: David Austgen stated the legals are in order.
- b) Petitioner’s Comments: Lester Inman stated he is asking to leave the shed where it is at. He built it himself and doesn’t know if he can move it. Lynn Inman stated the main reason why it is where it is, it is the only level piece of property in their yard. Need suggestions on where to move it. The entire yard slopes down.
- c) Remonstrators: None.
- d) Building Department’s Comments: Tim Kubiak stated the ordinance for a ten (10) foot separation for accessory buildings is for fire and safety. It is right against the house, the rules state ten (10) feet away and he had no permit for it.
- e) Board’s Discussion: John Kiepura asked does a shed against the house become a fire hazard. Jeff Bunge asked if he stored a lawn mower, gas or chemicals in there. Mr. Inman stated a lawnmower, wood and bicycles. Jerry Wilkening asked how much space between the house and property line. Jeff Bunge asked if they had someone who could grade out a little spot for them. Tim Kubiak stated that most people in this situation build their platform starting on the ground in the front and off the ground sixteen (16) inches in the rear to make the shed level. The elevation is less than that maybe twelve (12) inches. The board is concerned with fire hazard. If denied he will need to move it and pull a permit. Ms. Inman asked if they had a suggestion on where to move it. Tim Kubiak stated they have plenty of space to move it on their property and stay six (6) feet away from property line. Discussion ensued on possible locations for the shed.

A motion was made by Jerry Wilkening and seconded by John Kiepura to remove from the agenda as requested by the petitioner.

Eric Olson	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Absent	Yes	Yes	Yes	Absent	3-0

2. Kyle Pittman – Developmental Variance

Owner: Kyle Pittman, 9409 W. 141st Ave., Cedar Lake, IN 46303
Petitioner: Kyle Pittman, 9409 W. 141st Ave., Cedar Lake, IN 46303
Vicinity: 9409 W. 141st Ave., Cedar Lake, IN 46303
Legal Description: CEDARCREST SUBD. L.2 BL.3
Tax Key Number(s): 45-15-34-103-001.000-014

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XXIII-Accessory Regulations; 2) 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 shed in a front yard on a corner lot

- a) Attorney to Review Legals: David Austgen stated the legals are in order.
- b) Petitioner’s Comments: Not present.
- c) Remonstrators: None
- d) Building Department’s Comments: None
- e) Board’s Discussion: None

A motion was made by Jerry Wilkening and seconded by John Kiepura to defer to the August 11, 2016 Meeting.

Eric Olson	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Absent	Yes	Yes	Yes	Absent	3-0

3. Richard Witvoet – Developmental Variance

Owner: Richard Witvoet, 12753 Carey St., Cedar Lake, IN 46303
Petitioner: Richard Witvoet, 12753 Carey St., Cedar Lake, IN 46303
Vicinity: 12753 Carey St., Cedar Lake, IN 46303
Legal Description: Monastery Woods Phase 1 Lot 130
Tax Key Number(s): 45-15-21-257-008.000-014

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XXIV-Swimming Pool; Section 3: 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.

This Developmental Variance is to allow the Petitioner to have a pool with an eight (8) foot setback from the house.

- a) Attorney to Review Legals: David Austgen stated the leglas are in order.
- b) Petitioner’s Comments: Richard Witvoet would like to put in an eighteen (18) ft. above ground pool eight (8) foot from the house.
- c) Remonstrators: None
- d) Building Department’s Comments: Michelle Bakker stated they have a twenty-four (24) foot easement. Tim Kubiak stated he has enough room for an eight (8) foot setback, five (5) from the utility line, but he couldn’t get the full ten (10) foot. If you look at his back yard he is out of options. At his house this is behind the garage area, it is not where there is a second story where kids can jump out the window. No concerns.
- e) Board’s Discussion: John Kiepura asked if the ten (10) foot is for safety reasons.

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	Absent	3-0

4. Larry and Margo Nagy – Developmental Variance

Owner: Larry and Margo Nagy, 9600 W. 133rd Ave., Cedar Lake, IN 46303
Petitioner: Larry and Margo Nagy, 9600 W. 133rd Ave., Cedar Lake, IN 46303
Vicinity: 9600 W. 133rd Ave., Cedar Lake, IN 46303
Legal Description: S.140FT. OF E.170FT. OF SE Ex. Pt. E. & S. 30ft of S.21 T.34 R.9 .313AC.
Tax Key Number(s): 45-15-21-476-027.000-014

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XXI-Fence Regulations: Section 2: Fences located in Business And Industrial Zoning Districts: B. 1) Maximum height shall be three (3) feet; 2) No fence shall be allowed between the right-of-way and the front setback line in commercial areas served by sidewalks

This Developmental Variance is to allow the Petitioner a four (4) foot and six (6) foot fence in what is considered the front yard of a business.

- a) Attorney to Review Legals: David Austgen stated the legals are in order.
- b) Petitioner’s Comments: Larry Nagy, the fence has been there forever. The old fence needs to come down and wants to move it straight back to encompass the entire property. Going to make it six (6) ft. from the west side of the property corner, up to the pine tree, then on the other side be four (4) ft, bring it out to the same length of the fence now.
- c) Remonstrators: None
- d) Building Department’s Comments: Tim Kubiak stated that anytime one of these are requested we look at the vision going down the road, do have requirement for screening between residential and business. So this is beneficial to the neighbor to have this fence. No issue.
- e) Board’s Discussion: Jerry Wilkening asked if everything east of the tree will be four (4) ft. high. Discussion on location of the fence ensued.

A motion was made by John Kiepura and seconded by Jerry Wilkening 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	Absent	3-0

5. Ed Nowdomski – Developmental Variance

Owner: Ed Nowdomski, 13809 Morse, Cedar Lake, IN 46303
Petitioner: Ed Nowdomski, 13809 Morse, Cedar Lake, IN 46303
Vicinity: 13809 Morse, Cedar Lake, IN 46303
Legal Description: N. 49.50 FT. OF S. 31 RDS. OF W. 150 FT. OF NW. SE. S.26 T.34 R.9 CONT'G. .17A.
Tax Key Number(s): 45-15-26-404-004.000-043

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XXII Sign Regulations; Sec. 3; A. 1. c. i. In the case of one (1) such on-premise signs, sixty (60) square feet in size.

This Developmental Variance is to allow the Petitioner to have an 87 sq. ft. non electric sign on the building

- a) Attorney to Review Legals: David Austgen stated the legals are in order.
- b) Petitioner’s Comments: Ed Nowdomski wants to leave the sign up. Variance is for the sign that is there. Installed the sign without reading the requirements and was flagged. Mr. Nowdomski requested a deferral.
- c) Remonstrators: None
- d) Building Department’s Comments: None
- e) Board’s Discussion: Jeff Bunge asked what the ordinance allows. Michelle Bakker stated sixty (60) square feet. Over by twenty-seven (27) square feet. David Austgen stated it is nearly fifty (50) percent over.

A motion was made by Jerry Wilkening and seconded by John Kiepura to defer to the August 11, 2016 Public Meeting as requested by the petitioner.

Eric Olson	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Absent	Yes	Yes	Yes	Absent	3-0

6. Keith Piszro – Developmental Variance/Use Variance

Owner: Keith Piszro, 13485 W. 117th, Cedar Lake, IN 46303
Petitioner: Keith Piszro, 13485 W. 117th, Cedar Lake, IN 46303
Vicinity: 111 Broadway, Cedar Lake, IN 46303
Legal Description: Pt. NE.1/4 NE.1/4 S.28 T.34 R.9 (93x185ft) 0.395Ac
Tax Key Number(s): 45-15-28-228-008.000-014

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XXI – Fence Regulations, Section 2: B. 1) Maximum height shall be three (3) feet; 2) No fence shall be allowed between the right-of-way and the front setback line in commercial areas served by sidewalks

This Developmental Variance is to allow the Petitioner to have a fence in the front yard with a height of four (4) feet

- a) Attorney to Review Legals: David Austgen stated the legals are in order.
- b) Petitioner’s Comments: Keith Piszro, would like to put a fence around a proposed outdoor dining area. Large sign and islands will be gone after the Town redoes the parking lot. Wants to enhance the look and give an opportunity if anyone wants to dine outside.
- c) Remonstrators: None
- d) Building Department’s Comments: Tim Kubiak stated right now he is just asking for a fence and outdoor dining area. Questions on where front property line is located. Michelle Bakker asked where the fence would be located. Mr. Piszro will put the fence next to the sidewalk.
- e) Board’s Discussion: Discussion on location of fence and dining area. Jeff Bunge asked if this was for safety issues. David Austgen asked if this was going to be temporary until the end design and construction of that Broadway corridor is completed? So this is for the time period between now, if approved and when that construction is completed Mr. Piszro stated yes. Discussion on the reconstruction project ensued. John Kiepura asked what he will have to do once this is approved and once the street construction starts, what will need to be adjusted. This will be a temporary variance until construction starts, what happens after that. David Austgen stated that is exactly what he asked and this is temporary use of the property pending the completion of the road project. He will need to come back here, there will be a lot of things changed over there. Jerry Wilkening stated the understanding that the fence could have to move. Mr. Piszro discussed location of sidewalk and fence. David Austgen stated that the Board and the Town Council are going to need better detail to identify this. They have to assess the road project as they are designing it, what the uses are on that three hundred and fifty (350) foot strip and right now not certain we have the detail. Jerry Wilkening asked if he made a favorable recommendation with the understanding the fence may have to be moved for the Broadway road project. David Austgen stated we do not know what the engineers are going to come back with. Mr. Piszro discussed easements with the town. David Austgen stated they

are going to study this in detail. One of their significant responsibilities is to determine whether the public safety is enhanced and protected by which you propose for the use including that fence and in the locations where the fence is. Everybody here and now knows your property. We all know what it is like and if you put that fence up today and have those tables out there, they can assess it. We don't know once Broadway is approved, the parking design, the traffic pattern, the detail to the completion of that strip, we don't know anything. That is another decision, day and time when this Board will need to look at what your use is for safety, public access and proper assessment of use, with what they are prepared to improve that road. This is a significant six (6) figure project. There is a lot of work ahead of us, but it sounds they are amenable to your having today, what you asked for until that road is ready. You are going to be watching what is happening to your property against the design that is being proposed and then there will be another day here to find what the permanent end use will be for the next forty (40) or fifty (50) years. I know staff is unclear for details of what you want to do. John Kiepura stated his question is when the road construction is finished how will it affect this property. Wants him to understand that during the construction may have to alter this with what the engineers wants. Tim Kubiak stated if we fast forward in three years and the road is completely reconstructed, does the Board grant this fence and outdoor dining exactly as your are proposing or not. Would it mesh with the design of the new roadway. It will be fine until the road is redone and then revisit it then. Jerry Wilkening asked if the word temporary would work, for safety's sake they may want impact posts there. David Austgen stated the location might change, handicap access, many variables. Michelle Bakker stated if this is done will need to know exactly how many feet, can't approve a variance to put it where the new sidewalk is. Tim Kubiak asked if he was good with doing it on a temporary basis until the road is done, then would have to come back and say keep it or do this to make everyone happy. Mr. Piszro asked if it was worth waiting until the design of the street is done. David Austgen said if you waited we would all have the same plan in front of us, have your survey that would match up to the property line, then permanent planning could be put in application. Tim Kubak asked how they feel about the outdoor dining. Jerry Wilkening thinks the outdoor dining is close to the cars, especially in the drive thru. Discussion ensued on impact posts. Mr. Piszro stated he doesn't understand why he should have to take it down if the sidewalk was there and there was curbing, but understands if something strange comes up. David Austgen stated it is for safety purposes. Discussion on safety features ensued. Tim Kubiak asked since he went through the advertising process can we defer this a few months until the design is done. David Austgen stated yes he could.

A motion was made by John Kiepura and seconded by Jerry Wilkening to defer until the November 10, 2016 Public Meeting as requested by the petitioner.

Eric Olson	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Absent	Yes	Yes	Yes	Absent	3-0

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XII – Neighborhood Business, 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 for outdoor dining.

- a) Attorney to Review Legals:
- b) Petitioner's Comments:
- c) Remonstrators:
- d) Building Department's Comments:
- e) Board's Discussion:
- f) Recommendation to Town Council:

Motion: _____		2 nd : _____			
Eric Olson	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote

Public Comment: None

Adjournment: Time: 8:35 p.m.

Press Session: Board of Zoning Appeals Meeting – August 11, 2016 at 7:00pm

Eric Olson

Jeff Bunge, Vice Chairman

Jerry Wilkening

Jeremy Kuiper, Chairman

John Kiepora

Attest: Tammy Bilgri, Recording Secretary

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.