



**TOWN OF CEDAR LAKE
BOARD OF ZONING APPEALS
PUBLIC MEETING MINUTES
September 8, 2016 7:00 P.M.**

Call to Order (Time): 7:03 p.m.

Pledge to Flag:

Roll Call:

Present Eric Olson

Present Jerry Wilkening

Present John Kiepura

Present Jeff Bunge

Present Jeremy Kuiper

Present David Austgen, Town Attorney

Present Tim Kubiak, Director of Operations

Present Tammy Bilgri, Recording Secretary

Others Present: Michelle Bakker, Building Administrator, Robert Carnahan, Town Council, Greg Parker, Town Council, John Foreman, Town Council, Richard Sharpe, Town Council

Minutes:

A motion was made by Jeff Bunge and seconded by Jerry Wilkening to approve the August 11, 2016 Public Meeting Minutes as presented. Roll Call Vote: 5-0

Old Business:

1. Don Frey - Use Variance - Status Update

Owner: Don Frey, 332 E. 125th Pl., Crown Point, IN 46307

Petitioner: Don Frey, 332 E. 125th Pl., Crown Point, IN 46307

Vicinity: 14527 Lake Shore Drive, Cedar Lake, IN 46303

Legal Description: 14527 Lake Shore Drive, Cedar Lake, IN 46303

Tax Key Number(s): 45-15-35-304-001.000-043

At the March 10, 2016, BZA Meeting, Mr. Frey was given a favorable recommendation to the Town Council for a Variance of Use for the property located at 14527 Lake Shore Drive to have two (2) outdoor electric/amplified events a month, with quiet hours starting at 10:00 p.m. on weekdays, and 11:00 p.m. on weekends. A conditional recommendation is hereby further certified for public way and safety crossing improvements to be made in conjunction with the Town, by and through its Engineering Consultant and Director of Operations. Further, the Petitioner is to return to the September 8th BZA Public meeting for a business report and status update.

On March 15, 2016 the Town Council approved this Variance request based on the favorable recommendation from the BZA and to include the findings of fact.

- a) Attorney to Review Legals: None
- b) Petitioner's Comments: Don Frey, 332 E. 125 Pl, Crown Point. Have had a very good summer, above expectations. Try to fix complaints or errors immediately. Put ropes and signs up on both sides of the street to control pedestrian traffic. Good with two amplified events a month. Has it clearly marked, one way do not enter, but people still go the wrong way. Has not had any complaints from neighbors. If on the lake, can hear it because it carries. Is it possible to put up a reflective mirror on the utility pole so can see around the corner.
- c) Remonstrators: Robert Carnahan, 12850 Fairbanks St., Cedar Lake, IN, Cedar Lake Town Council, need bigger arrows and occasionally sees vehicles going in the wrong way. Greg Parker, 14823 Morse St., has had complaints from his neighbors about noise from Bugaboo's, is residential area. Outdoor entertainment, crowd and parking can be excessive. Wants to keep an eye on it. Does not want a full blown entertainment permit on it. Residential area, residents deserve peace and quiet in their own home.
- d) Building Department's Comments: Tim Kubiak stated did put up a couple of pedestrian signs and Mr. Frey painted the cross walk. Been no problems. He definitely did what we asked, put the barriers up and moved the cross walk as far to the east as possible.
- e) Board's Discussion: Jeremy Kuiper stated just want to make sure he is keeping the quiet hours. Discussion on upgrading safety features. Jeremy Kuiper stated the overall review sounds like it has been acceptable, can do more to improve the traffic and will try to work with him. David Austgen suggested another status update in six (6) months. This is a business use in a residential area. Discussion on having Mr. Frey return for a status update in March.

A motion was made by John Kiepura and seconded by Eric Olson to request the petitioner to return to the March 2017 BZA meeting for a status update and review of the variance that was granted.

Eric Olson	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Yes	Yes	Yes	Yes	Yes	5-0

2. 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

Deferred to November 10, 2016 Public Meeting

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

Motion: _____ 2nd: _____

Eric Olson	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote

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: _____ 2nd: _____

Eric Olson	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote

3. Michelle Spohn – Developmental Variance

Owner: Michelle Spohn, 8712 W. 139th Pl., Cedar Lake, IN 46303
 Petitioner: Michelle Spohn, 8712 W. 139th Pl., Cedar Lake, IN 46303
 Vicinity: 8712 W. 139th Pl., Cedar Lake, IN 46303
 Legal Description: LAKE SHORE ADD. LOTS 5 & 6 BL.1
 Tax Key Number(s): 45-15-27-451-006.000-014

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.

This Developmental Variance is to allow the Petitioner to build a six (6) ft. wood fence in the front yard

Deferred from August 11, 2016 Public Meeting

- a) Attorney to Review Legals:
- b) Petitioner's Comments:
- c) Remonstrators: None
- d) Building Department's Comments:
- e) Board's Discussion: Jeremy Kuiper stated the petitioner is requesting to be deferred to the December meeting when her survey is completed.

A motion was made by Jeff Bunge and seconded by Jerry Wilkening to defer this to the December 2016 BZA meeting.

Eric Olson	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Yes	Yes	Yes	Yes	Yes	5-0

4. Clif Kekelik – Developmental Variance

Owner: Clif Kekelik, 6824 W. 128th Ln., Cedar Lake, IN 46303
 Petitioner: Joshua A. Skalka, 3030 Ashton Hill, Schererville, IN 46375
 Vicinity: 6824 W. 128th Ln., Cedar Lake, IN 46303
 Legal Description: Highgrove 2nd Add Blk 12 Lots 32 & 33
 Tax Key Number(s): 45-15-23-266-025.000-043

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XX-Supplementary Zoning District Regulations; Section 6: A. Carport: A carport may be permitted over a driveway in a side yard, provided such structure is not more than one (1) story in height and twenty-five (25) feet in length and is entirely open on at least three (3) sides, except for the necessary supporting columns and customary architectural features; however, said carport may not extend to within six (6) feet of a side lot line.

This Developmental Variance is to allow the Petitioner to have a car port in the front yard with a three (3) ft. setback, three (3) ft. setback from house and side yard setback of one (1) ft.

Deferred from August 11, 2016 Public Meeting

- a) Attorney to Review Legals: David Austgen stated the legals are all in order.
- b) Petitioner's Comments: Joshua Skalka, 3030 Ashton Hill, Schererville, IN, last month we talked about taking off five (5) feet and redesigned it. Went from twenty-five (25) down to twenty (20). Will be five (5) feet behind the tree line, three (3) foot from house and side yard still one (1) foot.
- c) Remonstrators: None
- d) Building Department's Comments: Tim Kubiak stated if you look down both sides of the street, the front yard setbacks are maintained. Should go in the rear yard where it was platted. The well is in the way, it is a financial situation not a finding of fact.
- e) Board's Discussion: Jeremy Kuiper stated there is a place on the survey where the garage was platted, however the well head is in the way. Discussion about location of the well and setbacks. This does not meet the findings of fact and should maintain the front yard setbacks.

A motion was made by John Kiepura and seconded by Jeff Bunge to deny the developmental variance as presented and to include the findings of fact.

Eric Olson	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Yes	Yes	Yes	Yes	Yes	5-0

New Business:

1. Gloria Banter – Use Variance

Owner: Cedar Lake Commercial, LLC, 9700 Industrial Dr., PO Box 657, St. John, IN 46373
 Petitioner: Gloria Banter, 9417 W. 142nd Pl., Cedar Lake, IN 46303 and Ruby Dennis-Weber, 14707 Clark St., Crown Point, IN 46307
 Vicinity: 12615 Wicker Avenue, Cedar Lake, IN 46303
 Legal Description: SW COR. NW NW S.21 T.34 R.9 2AC. SUBJ. TO R/W GRANT SUBJ. TO EASEMENT

Tax Key Number(s): 45-15-21-101-014.000-014

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

This Use Variance is to allow the Petitioner to open personal training and weight loss center and to allow three (3) businesses on a lot in a Community Business B-2 Zoning District

- 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: Gloria Banter, 9417 W. 142nd Pl., Cedar Lake, IN and Ruby Dennis-Weber, 14707 Clark St., Crown Point, IN. Want to open a personal training business and weight loss center. Small with approximately fifty (50) clients. Open twenty-four (24) hours with three (3) employees. No signs by the street.
- c) Remonstrators: Bill Keith, 10455 W. 93rd Ave., St. John. For the business, was a client when they were behind Banter Floor Covering. Have trained with them for four (4) years and a valuable business. They are professional and focus on the individual client. Everyone that trains here is almost like a family. Very much for it.
Donald Bates, Jr. 11689 Patterson Ave., Cedar Lake. One of the owners of Hoosier Overhead Doors, they are taking over an empty space. Been having crime problems back there, be nice to have someone there on a regular basis. There is plenty of parking, striping will be done by next week. Also a client.
- d) Building Department's Comments: Tim Kubiak stated this is the same building that was here last month, with St. John Paving in the rear. The building where Hoosier Overhead Door is located. Previously there were two (2) businesses in the building and it is divided properly with a firewall and it meets current codes for separation of two (2) businesses. They have an entrance and exit and parking.
- e) Board's Discussion: Discussion on parking, and number of clients at a time. David Austgen asked Tim Kubiak if he considered this more of a retail business than a corporate office of Hoosier Overhead Door or the paving people that come in the morning, leave and come back at night, leave. Tim Kubiak stated this is definitely a different use, more people coming and going, where the parking lines should be reestablished. Discussion on number of parking spaces required and size. Would need twenty-five (25) spaces for 5,000 sq. ft. Michelle Bakker stated two signs allowed for entire property. If wants sign would have to come back for an additional variance.

A motion was made by John Kiepura and seconded by Jerry Wilkening to send a favorable recommendation to the Town Council for the Use Variance as requested with the stipulation of twenty-five (25) delineated 10' x 20' parking spaces prior to occupancy and to include the findings of fact.

Eric Olson	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Yes	Yes	Yes	Yes	Yes	5-0

2. Telamon – Use Variance

Owner: Hanover Community School Corp., 9520 W. 113rd Ave., Cedar Lake, IN 46303
Petitioner: Telamon/GES, 1000 E. 116th St., Carmel, IN 46032
Vicinity: 10120 W. 133rd Ave., Cedar Lake, IN 46303
Legal Description: Hanover Central Campus Sub Lot 1Ex. Fieldhouse & Spec. gym parcel
Tax Key Number(s): 45-15-21-451-005.000-014

Request: Petitioner is requesting a Use Variance from Zoning Ordinance No. 496, Title VI Agriculture (A) Zoning District

This Use Variance is to allow the Petitioner to build a 200kw solar system on the east side of high school property within the dry retention pond area

- a) Attorney to Review Legals: David Austgen stated the notices are in proper order a public hearing may be conducted or deferred as the case might be.
- b) Petitioner's Comments: None
- c) Remonstrators: Rick Kmetz, 9613 W. 134th Pl., wondering how visible it will be from 133rd. Does he understand that NIPSCO will give the school money for the fifteen years (15). What is the money going too? Will the tax payers be responsible for it or the school.

- Howard Skorka, 9730 W. 133rd Ave. Are there any negative affects to adjoining property owners. Anything that would affect the value of the property around it.
- d) Building Department's Comments: Tim Kubiak stated after fifteen (15) years the system would become the schools property and the school would be able to utilize the power made from it. The maintenance will become theirs.
 - e) Board's Discussion: Jeremy Kuiper stated the petitioner had called in advance to request a deferral to the October 13 meeting. This item was at the Plan Commission Meeting and they requested more information to include pictures, surveys and elevations. John Kiepura explained some of the safety features. Jeremy Kuiper read an email from Mr. Breeden dated Thursday, September 8, 2016 – On behalf of The Hanover Community Schools and Telamon Energy, I would like to request a delay for one month of our hearing on our request to build a solar array on the property of Hanover High School. Please place us on the October agenda in order to allow us to properly prepare a response to the directives received and information requested at the September 7 Plan Commission hearing. Thank you.

A motion was made by Jeff Bunge and seconded by Jerry Wilkening to defer this item to the October BZA Public Meeting.

Eric Olson	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Yes	Yes	Yes	Yes	Yes	5-0

3. 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. 128th 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: Petitioner is requesting a Developmental Variance 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 a 20 ft. front yard setback, 19 ft rear yard setback and lot coverage of approximately 32%

- 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: Jim Maciejewski, JMA Architects, three variance requests on this, the board considered it before in March. It was tabled for concerns raised by neighboring residents for drainage. Want to reduce the front yard setback to match the property adjacent, the rear yard setback to allow a deck and the lot coverage at twenty-five percent limits the ability to construct the residence that the school is considering. Was not involved in the original presentation to the board, when learned of the concerns of residents, went back and studied the issue of drainage. Planning to develop a drainage system on the northwest corner, a new catch basin and storm line developed along the west edge with an inlet based in the northwest corner. From the northwest corner there would be a swale developed to the east and under drain installed in that swale. Coming out of the under drain would propose some extension to the north to allow the property owners to the north of these two (2) parcels to extend sump pump discharge directly into that under drain. Look to develop a catch basin inlet at the midpoint of the lot to the east, piped to the open drainage along the street. This has been discussed with the Building Commissioner and some preliminary review has happened with the town engineer for consideration on a conceptual basis.
- c) Remonstrators: Chris Moek, 7413 W. 128th Pl., a lot of problems with water, comes down hill fast. Concerns with raising elevations.
Sandy Judd, 7506 W. 128th Ln., problems and concerns with flooding. Her basement floods, back yard floods, pool is sinking.
Greg Parker not remonstrating against variance, owns lots next to these parcels. Has an issued with a pile of debris that has been left on his property, wondering if from school construction, would like something done with it. Not positive it is on his property.

- d) Building Department's Comments: Tim Kubiak stated they met out there several times, had Don look at this preliminary plan. This plan will work according to Don. Unlike the last petition, this falls in line with the other houses in the neighborhood. The twenty (20) foot setback is consistence with other houses in neighbor. The good thing about this plan is that the infrastructure is going to be put in and one house is going to be constructed at this time, so fifty (50) percent of that will remain open for two (2) or three (3) years until they finish the first house. We will be able to see the effect of the drainage in this area. If one house gets built and we feel they are not working adequately, we can look into it again.
- e) Board's Discussion: Jerry Wilkening expressed concerns with elevations. David Austgen asked if these were lots of record. Michelle Bakker stated they are recorded lots of record. Discussion on drainage ensued. David Austgen stated it might be of some benefit here, sounds like the storm drainage is critical to the success of this project. We get one shot at doing this right, if your civil engineer comes in and presents a plan and our engineer Don Oliphant will review it. Have a working construction plan, but before occupancy, as built being in hand would be a base line. Can be a reseasonable condition for approval. Tim Kubiak stated an as built is required for all new homes built here. David Austgen stated he has concerns about this because it is not clear that it is a subdivision, not clear if platted lots of records, not clear if they went through those processes. Trying to find a protection that gives a baseline and gives a working game plan on the permit application, then a post construction inspection for verification of that as built. The second part before occupancy issued that there be an inspection for verification that the as built is accurate. Before they build on the second lot, will need to come back.

A motion was made by Jerry Wilkening and seconded by Eric Olson to approve the developmental variance as requested with the conditions of the completion of engineering by a professional engineer and to be reviewed and accepted by the town, occupancy is subject to verification of as built by the Town and to include the findings of fact.

Eric Olson	Jerry Wilkening	John Kieपुरa	Jeff Bunge	Jeremy Kuiper	Vote
Yes	Yes	Yes	Yes	Yes	5-0

Public Comment:

Robert Carnahan, 12850 Fairbanks St., Cedar Lake, IN., President of the Cedar Lake Chamber of Commerce, on September 22, we are having a lunch at HarryO's it is \$15.00, Speros Batistatos is going to be there talking about the potential for convention center and how it may have a restaurant and bar tax put on it.

Adjournment: Time: 8:59 p.m.

Press Session: Board of Zoning Appeals Meeting – October 13, 2016 at 7:00pm

Eric Olson

Jeff Bunge, Vice Chairman

Jerry Wilkening

Jeremy Kuiper, Chairman

John Kieपुरa

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.