



**TOWN OF CEDAR LAKE
BOARD OF ZONING APPEALS
PUBLIC MEETING MINUTES
April 13, 2017 7:00 P.M.**

Call to Order (Time): 7:02 p.m.

Pledge to Flag:

Roll Call:

Present Nick Recupito
Absent Jerry Wilkening
Present John Kiepura
Present Jeremy Kuiper
Present Jeff Bunge

Present David Austgen, Town Attorney
Present Tim Kubiak, Director of Operations
Present Michelle Bakker, Building Administrator
Present Tammy Bilgri, Recording Secretary

Minutes:

A motion was made by John Kiepura and seconded by Jeff Bunge to approve the March 9, 2017 Public Meeting Minutes as presented.

| Nick Recupito | Jerry Wilkening | John Kiepura | Jeff Bunge | Jeremy Kuiper | Vote |
|---------------|-----------------|--------------|------------|---------------|------|
| Yes | Absent | Yes | Yes | Yes | 4-0 |

Old Business:

1. Keith Piszro – Developmental Variance/Use Variance

Owner/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 from November 10, 2016 Public Meeting
Deferred from March 9, 2017 Public Meeting

- Attorney to Review Legals: David Austgen stated this has been properly continued.
- Petitioner's Comments: Keith Piszro, 13485 W. 117th, Cedar Lake, been waiting for years for development on his street and to enhance his business. Was waiting for plans for Broadway, finally received those. Will not interfere with the street, is on his property. Discussed future plans for his business and for plans of Broadway.
- Remonstrators: Charlotte Wiedeman, 8705 W. 139th Ct., would like to see potholes fixed on Broadway.
- Building Department's Comments: Tim Kubiak stated this has been delayed because waiting on plans for entry to complex.
- Board's Discussion: Discussion on the plans for Broadway ensued. Discussion on if this is a temporary fence or permanent and location of fence. Concerns for if it was installed according to Town ordinance.

A motion was made by Jeff Bunge and seconded by John Kiepura approve the Developmental Variance to allow the petitioner a four (4) ft. fence in the front yard with zero (0) ft. setback off of Broadway property line and to include the findings of fact.

| Nick Recupito | Jerry Wilkening | John Kiepura | Jeff Bunge | Jeremy Kuiper | Vote |
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| Yes | Absent | Yes | Yes | Yes | 4-0 |

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: David Austgen stated this was continued properly.
- b) Petitioner's Comments: Keith Piszro, 13485 W. 117th, Cedar Lake. Wants to have outdoor dining, no serving or alcohol outside.
- c) Remonstrators: None
- d) Building Department's Comments: Tim Kubiak stated should put a stipulation on how many tables can be outside.
- e) Board's Discussion: Discussion on stipulations, such as no entertainment, no alcohol and no service.

A motion was made by John Kiepura and seconded by Nick Recupito to send a favorable recommendation to the Town Council to approve outdoor dining in a B-1 Zoning District with ten (10) tables maximum, no dancing, no music, no service and no alcohol.

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| Nick Recupito | Jerry Wilkening | John Kiepura | Jeff Bunge | Jeremy Kuiper | Vote |
| Yes | Absent | Yes | Yes | Yes | 4-0 |

New Business:

1. Brennan Hogan-Developmental Variance

Owner/Petitioner: Brennan Hogan, 9831 Flagstaff St., Cedar Lake, IN 46303
Vicinity: 9831 Flagstaff St., Cedar Lake, IN 46303
Legal Description: Centennial Sub. Phase 7 Lot 20
Tax Key Number(s): 45-15-28-480-006.000-014

Request: ***This Developmental Variance is to allow the Petitioner to build a fence in a front yard, with a height over six (6) feet due to a berm***

- a) Attorney to Review Legals: David Austgen stated the legals are in order and a public hearing may be conducted.
- b) Petitioner's Comments: Brennan Hogan, 9831 Flagstaff, Cedar Lake, IN. Wants to build a fence in back yard with a berm, which is considered a front yard.
- c) Remonstrators: None
- d) Building Department's Comments: Tim Kubiak stated this is consistent with neighbors in that area.
- e) Board's Discussion: None

A motion was made by John Kiepura and seconded by Jeff Bunge to approve the Developmental Variance as presented and to include the findings of fact.

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| Nick Recupito | Jerry Wilkening | John Kiepura | Jeff Bunge | Jeremy Kuiper | Vote |
| Yes | Absent | Yes | Yes | Yes | 4-0 |

2. Pascual & Beth Sanchez & Deborah Johnson-Developmental Variance

Owner/Petitioner: Pascual & Beth Sanchez and Deborah Johnson, 10002 W. 128th Ave., Cedar Lake, IN 46303
Vicinity: 10002 W. 128th Ave., Cedar Lake, IN 46303
Legal Description: Monastery Woods Phase 1 Lot 174
Tax Key Number(s): 45-15-21-253-024.000-014

Request: ***This Developmental Variance is to allow the Petitioner to build a six (6') privacy fence on a corner lot with an eighteen (18) foot set back***

- a) Attorney to Review Legals: David Austgen stated the legals are in order and a public hearing may be conducted.
- b) Petitioner's Comments: Pascual Sanchez, 10002 W. 128th, requesting to bring the fence to the east eighteen (18) feet. Would also like to get a pool

and shed in future. Would like to have a six (6) foot fence to match the neighbors. Does not want the fence right up to the corner.

- c) Remonstrators: Jerry Wilkening, current Board member could not be here and sent in a letter. Mr. Wilkening stated it is not good precedence, the back yards are small, but the vacant property to the north should match this, otherwise it just makes a well laid out project not look well laid out and adds expense to adjacent land to keep uniformity.
- d) Building Department's Comments: Tim Kubiak stated this is a fence in the parkway in the thirty (30) foot setback area along the road. Request is to be eighteen (18) feet off the northeast corner of the house so actually asking to set the fence thirteen (13) foot off the property line. In the past have had a number of people come in for this request, in this subdivision there are none. Going through the current zoning ordinance and the recommendation of the Plan Commission as of now is to keep this policy the same as it is and not allow a six (6) foot fence in the front yard. We allow a four (4) foot fence fifty (50) percent open set back twenty (20) foot. The point of this ordinance is to keep the lines along the roadway open, so you can see traffic coming.
- e) Board's Discussion: Discussion on different options for the fence ensued. If willing to go eleven (11) foot with fifty (50) percent open space. The petitioner decided to withdraw his request.

3. James Hedrick-Developmental Variance

Owner/Petitioner: James Hedrick, 12844 Hess St., Cedar Lake, IN 46303
Vicinity: 12844 Hess St., Cedar Lake, IN 46303
Legal Description: Monastery Woods Phase 1 Lot 14
Tax Key Number(s): 45-15-21-251-016.000-014

Request: ***This Developmental Variance is to allow the Petitioner to have a six (6') foot privacy fence and above ground pool in what is considered a front yard***

- a) Attorney to Review Legals: David Austgen stated the legals are in order and a public hearing may be conducted.
- b) Petitioner's Comments: James Hedrick, 12844 Hess St., variance for a pool and fence in a front yard. Wants to know if he can bring fence in four (4) feet. Tim Kubiak would like it to be on the property line and maintain the swale line. Discussion on utility pole in the way of fence.
- c) Remonstrators: Dana Plant and Shirley Plant, 10508 129th Ave., concerns with survey that was done is incorrect. Was told no fences would ever be built in the easement. Distinct property marker at the end of the property. Believes his line is two (2) feet into his mother's property. Concerns with fences in the easement and how to maintain. David Austgen asked Mr. Plant if they have a survey.
- d) Building Department's Comments: Michelle Bakker stated he has thirteen (13) feet that touches a road. Tim Kubiak stated this is another one that is fairly consistent with other property in this area. In the past we have requested the fence be put on the north side of the twenty (20) foot drainage easement along 129th. Only needs variance for the thirteen (13) foot of fence that touches 129th. Very adamant about putting fences on the line because people do not maintain the easement. Concerns with when final grade is done that the swale is where discussed.
- e) Board's Discussion: The board discussed clarification of where the variance is needed. Tim's concern is that Mr. Hedrick has paid the surveyor to come out and restake his property. If they feel there is a dispute with his surveyor need to do something soon. Discussion ensued about the discrepancies in the surveys. Tim Kubiak stated this dispute has nothing to do with the variance request. He does not need a variance for the piece of fence that is in dispute. He suggests the surveyor come back out and he will go look at it. David Austgen stated his concern is we don't have complete information and once this approval occurs there is no resolution to this. Is suggested Mr. Plant bring in his surveys. Jeremy Kuiper stated at the top of Mr. Hedrick's survey it has a disclosure reading that the report is designed for use by a title company for with residential loan policies. No corner markers were set and the location data herein is based on limited accuracy measurements. Therefore, no liability will be assumed for any use of this data for construction of new improvements or fences.

A motion was made by Jeff Bunge and seconded by John Kiepura to defer the fence to the May 11, 2017 BZA Public Meeting and to approve the pool as presented and to include the findings of fact.

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| Nick Recupito | Jerry Wilkening | John Kiepura | Jeff Bunge | Jeremy Kuiper | Vote |
| Yes | Absent | Yes | Yes | Yes | 4-0 |

4. Robert Hopkins-Developmental Variance

Owner/Petitioner: Robert Hopkins, 13137 Polk St., Cedar Lake, IN 46303
Vicinity: 13137 Polk St., Cedar Lake, IN 46303
Legal Description: Meyer Manor 2nd BL.1 Lots 2 & 3
Tax Key Number(s): 45-15-22-457-046.000-014

Request: ***This Developmental Variance is to allow the Petitioner a fifty (50) percent open six (6') foot steel fence***

- a) Attorney to Review Legals: David Austgen stated the legals are in order and a public hearing may be conducted.
- b) Petitioner's Comments: Robert Hopkins, 13137 Polk St., did not realize he needed a variance to put an eight (8) foot section of fence. In the past had a shed there. The fence is there to protect the generator. Connected it to the neighbor's fence.
- c) Remonstrators: None
- d) Building Department's Comments: Tim Kubiak stated there are a lot of residences and buildings close to the road in that section of town. No problem with it, a fifty (50) percent open fence, not close to traffic, it is in line with the garage to the south.
- e) Board's Discussion: None

A motion was made by John Kiepura and seconded by Nick Recupito to approve the Developmental Variance as presented and to include the findings of fact.

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| Nick Recupito | Jerry Wilkening | John Kiepura | Jeff Bunge | Jeremy Kuiper | Vote |
| Yes | Absent | Yes | Yes | Yes | 4-0 |

5. Jeffrey Schilling-Developmental Variance

Owner/Petitioner: Jeffrey Schilling, 13246 Lake Shore Dr, Unit A302, Cedar Lake, IN 46303
Vicinity: 8328 W. 147th Avenue, Cedar Lake, IN 46303
Legal Description: S.120FT. OF N. 220FT. OF S. 673.50FT. OF W.41FT. OF E.131.70 FT. OF NW. SE. S.34 T.34 R.9 .113A.
Tax Key Number(s): 45-15-34-404-007.000-014

Request: ***This Developmental Variance is to allow the Petitioner to build a home with a height of thirty-seven (37') in the front, forty-eight (48') feet on the north elevation; with a rear yard setback of 45'; attached garage of 1500 sq. ft. with additional 900 sq. ft. underneath and additional off street parking***

- a) Attorney to Review Legals: David Austgen stated the legals are in order and a public hearing may be conducted.
- b) Petitioner's Comments: Jack Slager with Schilling Development representing Jeffrey Schilling. This parcel is approximately a one (1) acre lot on the south side of the lake. Recently went through the Plan Commission for a one (1) lot subdivision and site plan approval. The house placement was set based on the other homes in the area, height was thirty-six ft. point three inches (36'.3") in front, walk out basement in back forty-eight ft. (48'), rear yard setback of forty-five ft. (45') because of the twenty-five (25) percent rear yard requirement. Attached garage of 1,500 sq. ft maximum is 864 sq. ft., four (4) car garage and additional four (4) off street parking spaces instead of two (2). Unique design only one (1) peak reaches the highest point.
- c) Remonstrators: None
- d) Building Department's Comments: Tim Kubiak they have been to the Plan Commission for the subdivision and site plan. Had some issues with elevation and drainage, made sure it did not negatively impact neighbors. Site plan has been approved, very consistent with other houses in area.
- e) Board's Discussion: Jeff Bunge asked for clarification of height.

A motion was made by John Kiepura and seconded by Nick Recupito to approve the Developmental Variance as presented and to include the findings of fact.

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| Nick Recupito | Jerry Wilkening | John Kiepura | Jeff Bunge | Jeremy Kuiper | Vote |
| Yes | Absent | Yes | Yes | Yes | 4-0 |

6. Lynnsway Unit 1-Developmental Variance

Owner: Diamond Peak Group, 1313 White Hawk Dr., Crown Point, IN 46307
Petitioner: Lynnsway Development, LLC, 1313 White Hawk Dr., Crown Point, IN 46307
Vicinity: Lynnsway Unit 1, Lots 1-4, 7-10 & 13-23
Legal Description: Lynnsway Unit 1 Lot 17 (9903-A W 145th Ave) **and** Lynnsway Unit 1 Lot 16 (9821-A W 145th Ave) **and** Lynnsway Unit 1 Lot 15 (9801-A W 145th Ave) **and** Lynnsway Unit 1 Lot 14 (9721-A W 145th Ave) **and** Lynnsway Unit 1 Lot 13 (9617-A W 145th Ave) **and** Lynnsway Unit 1 Lot 18 (14525-A Carey St) **and** Lynnsway Unit 1 Lot 19 (14527-A Carey St) **and** Lynnsway Unit 1 Lot 20 (9900-A W 146th Ave) **and** Lynnsway Unit 1 Lot 21 (9820-A W 146th Ave) **and** Lynnsway Unit 1 Lot 22 (9800-A Euclid St) **and** Lynnsway Unit 1 Lot 23 (14627-A Euclid St) **and** Lynnsway Unit 1 Lot 1 (14500-A) Carey St **and** Lynnsway Unit 1 Lot 2 (14508-A Carey St) **and** Lynnsway Unit 1 Lot 3 (14524-A Carey St) **and** Lynnsway Unit 1 Lot 4 (14538-A Carey St) **and** Lynnsway Unit 1 Lot 8 (9905-A W 146th Ave) **and** Lynnsway Unit 1 Lot 7 (14630-A Drummond Ave) **and** Lynnsway Unit 1 Lot 9 (14615-A Drummond Ave) **and** Lynnsway Unit 1 Lot 10 (14620-A Euclid St)

Tax Key Number(s): 45-15-33-428-001.000-014 **and** 45-15-33-428-002.000-014 **and** 45-15-33-428-003.000-014 **and** 45-15-33-428-005.000-014 **and** 45-15-33-428-006.000-014 **and** 45-15-33-428-007.000-014 **and** 45-15-33-428-008.000-014 **and** 45-15-33-428-009.000-014 **and** 45-15-33-428-010.000-014 **and** 45-15-33-428-011.000-014 **and** 45-15-33-428-012.000-014 **and** 45-15-33-426-001.000-014 **and** 45-15-33-426-002.000-014 **and** 45-15-33-426-003.000-014 **and** 45-15-33-426-004.000-014 **and** 45-15-33-426-006.000-014 **and** 45-15-33-426-007.000-014 **and** 45-15-33-427-001.000-014 **and** 45-15-33-427-002.000-014

Request: ***This Developmental Variance is to allow the Petitioner to have a minimum lot area of 6,500 sq. ft.; minimum lot width of fifty-five (55) ft.; front yard setback of twenty-five (25) ft.; side yard setback of five (5) ft.; rear yard setback of twenty-five (25) ft.; building coverage of forty-five (45) percent***

- a) Attorney to Review Legals: David Austgen stated the legals are in order and a public hearing may be conducted.
- b) Petitioner’s Comments: Jack Huls, DVG, representing Lynnsway/Diamond Peak. Lynnsway Unit 1 is a recorded subdivision from 2005, seeking variances that relates to a replat. This parcel was zoned RM, the petitioner would like to build single family homes. The number of units for the RM zone was 96 and they would like to drop that to 48 single family homes. In front of Plan Commission seeking a rezone and here to seek variances on front, side and rear yard setbacks, overall lot width and coverage. The developer has agreed no fences permitted on the side yard only back yard, would allow for full access to houses for fire protection.
- c) Remonstrators: None
- d) Building Department’s Comments: Michelle Bakker stated the Plan Commission suggested they go for a twenty-five ft. (25) front yard setback to move those houses up five (5) feet to give them more room in the back. Tim Kubiak stated had some discussion at the Plan Commission; it was 96 multifamily units going to 48 single family homes. Keeping the original layout. Some of the infrastructure is already in.
- e) Board’s Discussion: Discussion on why changing from RM to R2 and on lot sizes. John Kiepura stated better product with single family homes.

A motion was made by John Kiepura and seconded by Nick Recupito to approve the Developmental Variance as presented contingent Plan Commission approval of the Rezone and to include the findings of fact.

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| Nick Recupito | Jerry Wilkening | John Kiepura | Jeff Bunge | Jeremy Kuiper | Vote |
| Yes | Absent | Yes | No | Yes | 3-1 |

Public Comment: Robert Carnahan, 12850 Fairbanks St., Cedar Lake, IN. On the March 21, 2017 Town Council Meeting the BZA sent an unfavorable recommendation to the Town Council for Julie Sadler, 8600 W. 139th Ct. According to the minutes the Town Council voted to send that back to you. Michelle Bakker stated they would need to come back and reapply. David Austgen stated the Town Council referred her back to the BZA, Tim Kubiak stated she is trying to get into a different place.

Adjournment: Time: 9:37 p.m.

Press Session: Board of Zoning Appeals Meeting – May 11, 2017 at 7:00pm

Nick Recupito

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.