



**TOWN OF CEDAR LAKE
BOARD OF ZONING APPEALS PUBLIC MEETING
Minutes
June 8, 2017 7:00 P.M.**

Call to Order (Time): 7:01 p.m.

Pledge to Flag:

Roll Call:

Present Nick Recupito

Present 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 May 11, 2017 Public Meeting Minutes.

Nick Recupito	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Yes	Yes	Yes	Yes	Yes	5-0

New Business:

1. Tom Barber-Developmental Variance

Owner/Petitioner: Tom Barber, 15043 Ivy St., Cedar Lake, IN 46303

Vicinity: 15043 Ivy St., Cedar Lake, IN 46303

Legal Description: Lynnsway Unit 3 Lot 149

Tax Key Number(s): 45-19-04-230-011.000-057

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 where a “structure” is prohibited under the terms of this Zoning Ordinance; and 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 to allow the Petitioner to have a pool and deck with a thirty (30') ft. setback in what is considered the front yard

- a) Attorney to Review Legals: David Austgen stated the legals are in order a public hearing may be conducted.
- b) Petitioner's Comments: Tom Barber, 15043 Ivy, wants to put a 15' x 30' oval pool thirty (30') feet from the fence.
- c) Remonstrators: None
- d) Building Department's Comments: Tim Kubiak stated this is along Parrish Avenue, already has a fence, double sided front yard. Fairly simple decision.
- e) Board's Discussion: Discussion about distance between deck and pool, also on if extending the deck.

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.

Nick Recupito	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Yes	Yes	Yes	Yes	Yes	5-0

2. Martin Blane-Developmental Variance

Owner/Petitioner: Martin Blane, 14853 Ivy St., Cedar Lake, IN 46303

Vicinity: 14853 Ivy St., Cedar Lake, IN 46303

Legal Description: Lynnsway Unit 2 Lot 42

Tax Key Number(s): 45-15-33-481-015.000-014

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 to allow the Petitioner to have a six (6') foot fence with a thirty (30') foot setback 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: Martin Blane, 14853 Ivy St., wants to build a six (6') foot cedar fence. That will line up with other fences in the area.
- c) Remonstrators: None
- d) Building Department's Comments: Tim Kubiak stated it is another case of two front yards.
- e) Board's Discussion: None

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

Nick Recupito	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Yes	Yes	Yes	Yes	Yes	5-0

3. Steve & Karah Gibson-Developmental Variance

Owner/Petitioner: Steve & Karah Gibson, 14773 Ivy St., Cedar Lake, IN 46303
Vicinity: 14773 Ivy St., Cedar Lake, IN 46303
Legal Description: Lynnsway Unit 2 Lot 36
Tax Key Number(s): 45-15-33-481-009.000-014

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 where a “structure” is prohibited under the terms of this Zoning Ordinance

This Developmental Variance is to allow the Petitioner to have a swimming pool with a forty (40') ft. setback 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 held.
- b) Petitioner's Comments: Steve Gibson, 14773 Ivy, would like to put in a pool in what is considered a front yard.
- c) Remonstrators: None
- d) Building Department's Comments: Tim Kubiak stated this is similar to the last two. He has already been through this for a fence, now wants a pool.
- e) Board's Discussion: Discussion on setbacks and how far from the house.

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

Nick Recupito	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Yes	Yes	Yes	Yes	Yes	5-0

4. Michele & Kevin Hartigan-Developmental Variance

Owner/Petitioner: Michele & Kevin Hartigan, 10021 W. 128th Ln., Cedar Lake, IN 46303
Vicinity: 10021 W. 128th Ln., Cedar Lake, IN 46303
Legal Description: Monastery Woods Phase 1 Lot 6
Tax Key Number(s): 45-15-21-258-002.000-014

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 to allow the Petitioner to have a six (6') ft. pvc fence in what is considered a front yard

- a) Attorney to Review Legals: David Austgen stated the legals are in order.
- b) Petitioner's Comments: Kevin Hartigan, 10021 W. 128th Ln, wants to put up a fence consistent with the neighbors in what is considered a front yard.
- c) Remonstrators: None

- d) Building Department's Comments: Tim Kubiak stated this is the Monastery North subdivision. Several variances have been granted in this area also. Discussion on location of fence and if going to follow the utility easement line. Will come out and look at easement.
- e) Board's Discussion: Discussion on location of the fence.

A motion was made by Jerry Wilkening and seconded by Jeff Bunge as presented contingent a site visit from the Building Commissioner to maintain twenty (20') foot line and to include the findings of fact.

Nick Recupito	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Yes	Yes	Yes	Yes	Yes	5-0

5. Son Nguyen-Special Use Variance

Owner: Son Nguyen, 13140 Wicker Ave., Cedar Lake, IN 46303
Petitioner: Luanne Daniel, 658 Apache Lane, Lowell, IN 46356
Vicinity: 13140 Wicker Ave., Cedar Lake, IN 46303
Legal Description: PT. E2. SE. S.20 T.34 R.9 '200X79 FT.' 0.362 A.
Tax Key Number(s): 45-15-20-479-015.000-014

Request: Petitioner is requesting a Special Use Variance from Zoning Ordinance No. 496, Title XIII-Community Business (B-2) Zoning District: Section (2) which states, "Any Business of commercial uses permitted in the Community Business (B-2) Zoning District, subject to the regulations of this Zoning Ordinance, as amended from time to time for this Zoning District..."

This Special Use Variance is to allow the Petitioner to have an attached apartment for residential use behind existing business in a B-2 Zoning District

- a) Attorney to Review Legals: David Austgen stated legals are in order.
- b) Petitioner's Comments: Luanne Daniel, 13140 Wicker Ave., need a special use variance to have a residence and a business together. Currently has eight (8) to ten (10) parking spots. Hours Tuesday to Saturday 8:00 a.m. to 8:00 p.m., closed Sunday and Monday. Will have three (3) stylist, will resurface the current signs.
- c) Remonstrators: None
- d) Building Department's Comments: Tim Kubiak stated Mr. Nguyen came here in 2014 and received a variance to rent out the back of the building as a residence. Was approved with stipulations of adding a fire separation wall between the business and residence. That was the stipulation at that time, someone has been living there for a few years, but never any movement for the rental part and now that has expired. Do not know if the fire separation wall was ever followed through on. This would need to be a one (1) hour firewall.
- e) Board's Discussion: Jeff Bunge asked if home is currently occupied. The answer was yes. Jeremy Kuiper stated that at the previous meeting when this item was heard the following contingencies were made: fire department inspections, occupancy permits issued for the business with fire wall protections for residential use and to include the findings of fact. Discussion on parking and number of handicap spots. Concerns with enough parking for the customers and residents. Restriping of parking lot. Discussion on condition of the fence.

A motion was made by John Kiepura and seconded by Jerry Wilkening to send a favorable recommendation to the Town Council for a dual use (single Family/Residential Business) in a B-2 Zoning District contingent upon the following conditions, namely: one (1) hour fire wall; inspections and approval by the Fire Department; hours 8:00 a.m. to 8:00 p.m. Tuesday-Saturday; restriped parking lot; repair of fence to Building Code standards; include the findings of fact.

Nick Recupito	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Yes	Yes	Yes	Yes	Yes	5-0

6. Mike & Myra Ajder-Developmental Variance

Owner/Petitioner: Mike & Myra Ajder, 9053 Clark Place, Crown Point, IN 46307
Vicinity: 14625 Dewey St., Cedar Lake, IN 46303
Legal Description: South Shore Sub. N.3ft of lot 46 & lot 45 Ex. N.3ft

Tax Key Number(s): 45-15-35-305-010.000-043

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title VIII-Residential (R-2) Zoning District; Section 4: C. Side Yard: there shall be two (2) side yards, each having a width of not less than eight (8) feet; D. Rear Yard: there shall be a rear yard on not less than twenty-five (25) percent of the depth of the lot; E. Building Coverage: Not more than twenty-five (25) percent of an area of the lot may be covered by buildings and/or structures

This Developmental Variance to allow the Petitioner to have two (2) side yards of five (5) feet; a rear yard twenty-five (25') feet (twenty (20%) percent of the depth of the lot) and building coverage of forty (40%) percent

- a) Attorney to Review Legals: David Austgen stated the legals are in order and a hearing may be conducted.
- b) Petitioner's Comments: Myra Ajder, 9053 Clark Pl., Crown Point, In. For two (2) five (5') foot side yards, rear yard of twenty-five (25') feet which is twenty (20%) percent instead of twenty-five (25%) percent and building coverage of forty (40%) percent. Will be an improvement to the neighborhood.
- c) Remonstrators: David Crane, 14629 Dewey, thinks lot is five (5') feet smaller than they say. Too close for emergency vehicles. Concerned with flooding and property values.
Jonathan Smith, 14621 Dewey, when bought house the fence on the south side is on the property line, our mortgage company required the neighbor to give a three (3') foot easement into the next lot. Tim Kubiak stated in the legal description of the survey it shows they own lot 45 and the north three (3') feet of lot 46. Everybody owns the lot and three (3') foot over, something must have been messed up at one (1) time. Mr. Smith is also concerned with privacy, since so close, will they be looking into their bedroom windows.
- d) Building Department's Comments: Tim Kubiak stated this is in South Shore Subdivision, the lot is fifty (50') foot by one hundred twenty five (125). Consistent with neighborhood. Suggests keep side yards open and clear of air conditioners and generators. Zoned R-2 it is an eight (8') foot setback, so they are asking for a three (3) foot variance on each side. This is a recorded lot of record, if they came in tomorrow for a building permit with a thirty-two (32') foot house that was five (5') feet shorter, would not need a variance. It is hard to meet the requirement of the four hundred square foot (400 sq. ft.) garage.
- e) Board's Discussion: Discussion on location of house and other properties in the area ensued. The Board discussed the size of the lots. Tim Kubiak stated this area is slated for storm sewer and redevelopment soon, anticipates water problems coming to an end with those improvements. David Austgen stated nearly three (3) million dollars worth of road improvements is going to be occurring in this subdivision. The project is out to bids right now, it should be built in the next year.

A motion was made by John Kiepura and seconded by Jerry Wilkening to approve as requested contingent upon keeping side yards clear of air conditioners and generators and to include the findings of fact.

Nick Recupito	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Yes	Yes	Yes	Yes	No	4-1

7. American Legion Post 261-Developmental Variance

Owner: American Legion Post 261, 13050 Washington St., Cedar Lake, IN 46303
Petitioner: John Lepper, 11202 Wicker Ave., Cedar Lake, IN 46303
Vicinity: 13050 Washington St., Cedar Lake, IN 46303
Legal Description: PT NE1/4 SW1/4 S.22 T.34 R.9 E. OF C. I. & L. RR 10.262AC
Tax Key Number(s): 45-15-22-327-001.000-014 **and** 45-15-22-376-003.000-014 **and** 45-15-22-382-002.000-014

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XXIII-Accessory Regulations: Section 1: Prohibition: Use of semi-trailers, truck boxes, pickup tops and campers are prohibited as accessory structures in all Zoning Districts.

This Developmental Variance to allow the Petitioner to have a 40 ft. x 8 ft. 4 in. steel container for storage, adjacent to the west side of Legion building 26 ft. 5 in. from building

- a) Attorney to Review Legals: David Austgen stated the legals are in order and a public hearing may be conducted.
- b) Petitioner’s Comments: William Kallas, Commander American Legion, 13050 Washington St., requesting a permanent storage container on the west side of the building, over crowded with wheel chairs that they loan out. Need more room.
- c) Remonstrators: Larry Nagy, 9065 W. 129th Pl., backyard is adjacent to this. Very pro American Legion, mows for them and helps clean up property. They lit a bon fire and burnt the siding on building. Totally against it, thinks it would be an eye sore. Concerns with it being the fourth (4th) outbuilding on the property.
- d) Building Department’s Comments: Tim Kubiak stated have had requests for these in the past, not a good idea. Viewable from some houses and the parking lot. This is a judgment call, considered a metal building. Told them could pull a permit and reside it and put a roof on and turn it into an accessory structure. One of those things that if we start letting them be allowed, could be a problem in the future.
- e) Board’s Discussion: Jeremy Kuiper suggested an accessory structure or shed instead. Mr. Kallas stated they don’t have the funds for that at this time. John Kiepura asked how full the structure is. Mr. Kallas stated about twenty (20%) percent full at this time. Had to stop because of the variance. John Kiepura is concerned with setting precedence, if we let one would have to let everybody. Discussion on cost of container and how much it would possibly cost to side and put a roof on. Jerry Wilkening discussed a possible deferral to let them do some research. Jeremy Kuiper stated he did not see a need for a deferral; we need to set precedence.

A motion was made by John Kiepura and seconded by Jerry Wilkening to deny the Developmental Variance and to include the findings of fact.

Nick Recupito	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Yes	Yes	Yes	Yes	Yes	5-0

8. Cedar Lake Ventures One LLC-Developmental Variance

Owner: Cedar Lake Ventures One, LLC, 20001 51st W., Bradenton, FL 34209
Petitioner: Rossman Partners, LLC, 11061 Broadway, Crown Point, IN 46307
Vicinity: 9708 Lincoln Plaza, Cedar Lake, IN 46303
Legal Description: PT N.904.77FT OF NE1/4 NE1/4 S.28 T.34 R.9 0.828Ac
Tax Key Number(s): 45-15-28-228-023.000-014

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XIII Community Business (B-2) Zoning District; Section 5, B. Front Yard: 4) All other streets, a distance of thirty (30) feet; D. Rear Yard: There shall be a rear yard on each lot, the depth of which shall not be less than thirty (30) feet from the rear lot line

This Developmental Variance to allow the Petitioner to have a front yard setback of zero (0’) ft. and a rear yard setback of ten (10’) ft.

- 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 the owners and petitioners. Proposing a sixty by one hundred twenty (60’ x 120’) foot building for Anytime Fitness. Already been to Plan Commission for 1-lot subdivision. Want to line this up with existing buildings in the area. The required setback is thirty (30) feet in front and back. Requesting zero (0) setback for the front. Mr. Huls discussed ingress/egress easements and site plans that have been to Plan Commission. Will be a twenty-four (24) hour facility. A description of building plan was given.
- c) Remonstrators: Becky Davis, 8504 W. 139th Ave., concerns with how many members it will take to keep up a facility like that and on enough parking. Ngan Tong, 13328 Lincoln Plaza, concerns with opening road in the back. Uses this for parking does not want it blocked.
- d) Building Department’s Comments: Tim Kubiak stated this is consistent with other businesses in the area. Plan Commission has steered them in this direction. All concerns with easements have been worked out.

- e) Board's Discussion: John Kiepura stated their Plan Commission approval is contingent this approval. Discussion on the alley, roadway and easements ensued. Mr. Huls explained the parking plan, will have thirty-three (33) parking spaces around the building.

A motion was made by John Kiepura and seconded by Jeff Bunge to approve the Developmental Variance as requested contingent outstanding approval of Plan Commission comments and to include the findings of fact.

Nick Recupito	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Yes	Yes	Yes	Yes	Yes	5-0

9. Bruce & Beverly James-Developmental Variance

Owner/Petitioner: Bruce & Beverly James, 9306 W. 128th Ave., Cedar Lake, IN 46303
Vicinity: 12744 Woodland Ave., Cedar Lake, IN 46303
Legal Description: Pon & Co's Schubert Lake Acres Lots 20, 21 & 22
Tax Key Number(s): 45-15-22-154-008.000-014

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XXIII-Accessory Regulations; Section 1: A. 1) There must be a complete residential structure on any given parcel of land prior to construction of any accessory building; 4) No accessory buildings allowed in the front yard of any residential lot

This Developmental Variance to allow the Petitioner to build a new garage before new home with a thirty-two (32') foot setback in the front yard

- a) Attorney to Review Legals: David Austgen stated the legals are in order a public hearing may be conducted.
- b) Petitioner's Comments: Beverly James, 9306 W. 128th Ave., want to build on 12744 Woodland Ave., would like to build the garage first and then build the house. Want to do this because where the house will go is a foundation with roof of uncles house that burned years ago. Need garage to store stuff as soon as garage is done, will build house. Discussion on history of property and how many lots.
- c) Remonstrators: None
- d) Building Department's Comments: Tim Kubiak stated no concerns, large piece of property in a remote area. They want to build an accessory building in the front yard. It was suggested they put a time line on the start of the house after garage is done.
- e) Board's Discussion: Discussion on if the lots are considered one piece of property. The Board discussed options on making sure they build a house after garage is done. Nick Recupito suggested applying for both permits from the start.

A motion was made by John Kiepura and seconded by Nick Recupito to approve the Developmental Variance as requested contingent upon house permit be applied for at the same time as the garage permit and to include the findings of fact.

Nick Recupito	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Yes	Yes	Yes	Yes	Yes	5-0

Public Comment: Don Frey, 332 E. 125th Pl., Crown Point. Approached by a company that rents kayaks and paddle boards. Wants to put a small building near his pier. Looking for a centrally located lake to do competitions.

David Austgen stated it is premature for this administrative body to make suggestions. The Plan Commission was the right place to be as well as discussing with staff. The BZA does not have work sessions. Tim Kubiak stated Mr. Parker on the Plan Commission suggested he come to this meeting. The staff will get together with Mr. Frey to discuss his next steps. Would need a site plan and the size of the building.

David Austgen stated he will be reporting at the next meeting on a new case that was decided by the Indiana Court of Appeals in the last month. Related to variance of use approvals, forms, contents and substance.

Adjournment: Time: 9:08 p.m.

Press Session: Board of Zoning Appeals Meeting – July 13, 2017 at 7:00pm

Nick Recupito

Jeff Bunge, Vice Chairman

Jerry Wilkening

Jeremy Kuiper, Chairman

John Kiepura

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.