



**TOWN OF CEDAR LAKE
BOARD OF ZONING APPEALS PUBLIC MEETING
MINUTES
August 10, 2017 7:00 P.M.**

Call to Order (Time): 7:05 p.m.

Pledge to Flag:

Roll Call:

Present Nick Recupito
Present Jerry Wilkening
Present John Kiepura
Absent 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 Jerry Wilkening to approve the July 13, 2017 Public Meeting Minutes as presented.

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

New Business:

1. Pete Baughman-Developmental Variance

Owner/Petitioner: Pete Baughman, 10218 W. 128th Ln., Cedar Lake, IN 46303
Vicinity: 10218 W. 128th Ln., Cedar Lake, IN 46303
Legal Description: Monastery Woods Phase 1 Lot 147
Tax Key Number(s): 45-15-21-255-006.000-014

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 to allow the Petitioner to build a 16' x 16' deck with a rear yard setback of approximately twenty-three (23') feet

- a) Attorney to Review Legals: David Austgen stated the legals are in order and a public hearing may be conducted.
- b) Petitioner's Comments: Pete Baughman, 10218 W. 128th Ln., would like to put a 16'x16' deck on the house. Legally could do 16'x11'.
- c) Remonstrators: None
- d) Building Department's Comments: Tim Kubiak stated Mr. Baughman has a decent sized back yard. No concerns.
- e) Board's Discussion: None

A motion was made by John Kiepura and seconded by Jerry Wilkening 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	Absent	4-0

2. Jeffrey & Jennifer Anderson-Developmental Variance

Owner/Petitioner: Jeffrey & Jennifer Anderson, 12815 Carey St., Cedar Lake, IN 46303
Vicinity: 12815 Carey St., Cedar Lake, IN 46303
Legal Description: Monastery Woods Phase 1 Lot 133
Tax Key Number(s): 45-15-21-257-011.000-014

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XXIV-Swimming Pool: Section 3: Location: 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 where a “structure” is prohibited under the other terms of this Zoning Ordinance.

This Developmental Variance to allow the Petitioner to have a fifteen (15') foot round swimming pool three (3') feet away from the house

- a) Attorney to Review Legals: David Austgen stated the legals are in order the public hearing may be conducted.
- b) Petitioner’s Comments: Jeff Anderson, 12815 Carey St., would like to put in a fifteen (15') pool three (3) feet from the house. Did not realize the easement was so large.
- c) Remonstrators: None
- d) Building Department’s Comments: Tim Kubiak stated the large easement messes with the back yard, has no other space.
- e) Board’s Discussion: John Kiepura asked if the pool would be right on the easement line. Jeff Bunge expressed concerns with safety.

A motion was made by Jerry Wilkening and seconded by Nick Recupito to approve as presented and to have pump and filter ten (10) feet from the house and to include the findings of fact.

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

3. Nathan Bapple-Developmental Variance

Owner: Nathan Bapple, 7807 W. 127th Ave., Crown Point, IN 46303
Petitioner: Homes By Dutch Mill, 14795 W. 101st Ave., Dyer, IN 46311
Vicinity: 7807 W. 127th Ave., Cedar Lake, IN 46303
Legal Description: PT. SW NW S.23 T.34 R.9 (53.65x165ft) 0.306 AC. M/L
Tax Key Number(s): 45-15-23-154-012.000-043

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title VIII-Residential (R-2) Zoning District; Section 4: C. Side Yard: On each lot, except as otherwise specified, 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.

This Developmental Variance to allow the Petitioner to build a new home with a side yard setback of 6.28 ft.

- a) Attorney to Review Legals: David Austgen stated the legals are in order a public hearing may be conducted.
- b) Petitioner’s Comments: Asking for a variance to build a new home. Old residence has been torn down. Family owns property surrounding. Asking for a little more than a foot on each side.
- c) Remonstrators: None
- d) Building Department’s Comments: Tim Kubiak stated this is a unique piece of property. It is a large house for the lot. It is not a lot of record to build a house, it is a metes and bounds parcel. Does not have a problem with the setbacks due to the nature of the property, as far as the lot not being a legal lot of record that will be a problem. David Austgen stated making this a lot of record is required under the Town Code. Cannot issue a building permit without this being a lot of record.
- e) Board’s Discussion: Discussion on accessory structures and air conditioning unit. Jeff Bunge asked about a fence and expressed concern with emergency access. Nick Recupito had questions on driveway location. Discussion on to give approval contingent plan commission approval. Matt Bapple asked what a one (1) lot subdivision means. Discussion on what is required ensued. Tim Kubiak stated it is establishing a one (1) lot subdivision to create a legal buildable lot. It is now a chunk of a metes and bounds parcel. We cannot issue a building permit without it being a lot of record. David Austgen stated when their engineer or surveyor looks at the subdivision control ordinance, they will have basic things they will need to give us. Discussion on the next steps that need to be taken.

A motion was made by Jerry Wilkening and seconded by John Kiepura to defer to the September 14, 2017 Public Meeting at the request of the petitioner.

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

4. HB Property Management-Developmental Variance

Owner: HB Property Management, LLC, 701 E. 137th Ave., Crown Point, IN 46307
 Petitioner: Tim B. Hall, 701 E. 137th Ave., Crown Point, IN 46307
 Vicinity: 12725 Colfax St., Cedar Lake, IN 46303
 Legal Description: Krystal Oaks Estates Lot 19
 Tax Key Number(s): 45-15-23-281-002.000-043

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 to allow the Petitioner to build a new house with a rear yard setback of 27.35 feet

- a) Attorney to Review Legals: David Austgen stated the legals are in order and a public hearing may be conducted.
- b) Petitioner's Comments: Tim Hall stated wants to build a new house with a rear set back of 27.35 feet. To put a sunroom in the rear.
- c) Remonstrators: None
- d) Building Department's Comments: Tim Kubiak stated this is similar to other properties in that area. This is not excessive with size of the property.
- e) Board's Discussion: None

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

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

5. Robert J. Bobb-Developmental Variance

Owner: Robert J. Bobb, 13007 Wicker Ave., Cedar Lake, IN 46303
 Petitioner: Jeff Tamborrino, 940 Highlands Dr., Crown Point, IN 46307
 Vicinity: 13007 Wicker Ave., Cedar Lake, IN 46303
 Legal Description: BOBB Autogroup Sub Lot 1
 Tax Key Number(s): 45-15-21-301-020.000-014

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XXII-Sign Regulations; Section 3: A. 1. No more than two (2) on-premise signs shall be allowed on a zoning lot; c. ii. In the case of two (2) such on-premise signs, one (1) sign shall be no more than sixty (60) square feet in size and one (1) sign shall be no more than thirty-two (32) square feet in size.

This Developmental Variance is to allow the Petitioner to add an additional 3' x 12' sign

- a) Attorney to Review Legals: David Austgen stated the legals are in order and a public hearing may be conducted.
- b) Petitioner's Comments: Jeff Tamborrino, General Manager, Bobb Auto, want to put an additional sign on the building. They are required by Chrysler to have this sign. Have satisfied everything on their end with the detention pond. Mr. Tamborrino brought up concerns with accidents in front of his place. And the possibility of turn lanes.
- c) Remonstrators: None
- d) Building Department's Comments: Tim Kubiak stated they have turned in the as-builts. Has no issues with the sign.
- e) Board's Discussion: Jerry Wilkening expressed concerns with signs being lit all night. Mr. Tamborrino stated will it be off at 9:00 p.m.

A motion was made by Jerry Wilkening and seconded by John Kiepura to approve as presented contingent sign follows off cycles of other signs and to include the findings of fact.

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

6. Don Frey-Developmental/Use Variance

Owner: Don Frey, 14527 Lake Shore Drive, Cedar Lake, IN 46303
 Petitioner: Don Frey, 332 E. 125th Pl., Crown Point, IN 46307
 Vicinity: 14527 Lake Shore Drive, Cedar Lake, IN 46303
 Legal Description: SOUTH SHORE SUB. L.1 & 2
 SOUTH SHORE SUBDIV W100FT OF LOT "A" E1/2 VAC ST
 Tax Key Number(s): 45-15-35-304-001.000-043
 45-15-35-301-001.000-043

Request: Petitioner is requesting a Developmental Variance/Use Variance from Zoning Ordinance No. 496, Title XIII: Community Business (B-2) Zoning District: Section 2: Use Regulations; Title XXIII-Accessory Regulations: Section 1: B. Accessory buildings intended for business or industrial purposes and located in Business Zoning Districts shall be allowed, provided they conform to all height, setback, yard and lot coverage requirements of the Zoning District they are located.

This Developmental Variance/Use Variance is to allow the Petitioner to build a structure ten (10') from side property line and twenty-five (25') feet from front property line to accommodate two (2) businesses. One half for renting paddle boards and kayaks and one half for selling bottled beer, wine, soft drinks and water

- a) Attorney to Review Legals: David Austgen stated the legals are in order and a public hearing may be conducted.
- b) Petitioner's Comments: Don Frey, 332 E. 125th Pl., Crown Point, IN 46307. Would like to build a structure on the northwest corner of that property. With the intentions of weekends and special events, to have this building with half sales of cans and bottle drinks, to eliminate the cross traffic of people crossing the street. The other half of the building to rent paddle boards and kayaks. Discussion on trying to bring in more boaters and this lessening the people crossing the street. Mr. Frey stated his liquor license is good for his entire lot and he has a second license if needed.
- c) Remonstrators: Wendy Spencer, family owns lot next to it. Concerns with liquor license. Too many boats in the water, the boats go in front of their cottage. Does not have room for anymore boats. Concerns with the unsafe corner.
 Debbie Demit, part owner of the cottage at 8000 146th Ave. Concerns with dangerous corner. Read her letter. **Attached**
 Keith Piszro mother has cottage at 14520 Lake Shore Dr. Has had property since 1947. It has always been a restaurant or tavern, always had trouble with people coming into our subdivision. It is a nice business now, but you want to take it to the next step. His understanding is one alcohol permit, one building, not across the street, should check with excise. Parking more boats is a problem for the swimming area to the right. Checking with the DNR to enforce on encroachment. People complain about the noise, should put up a barrier fence.
 Rebecca Davis, 8504 W. 139th Ave., is with the boaters all the time, that area is very congested. No room to park, the slips are rented out and always full. Concerns with the kids swimming in the area with boaters coming in and receiving alcohol. This is not fair to South Shore Subdivision to allow more traffic to come into that area. We should make it harder for the boaters to get alcohol. Has talked to the DNR and Conservation. It is up to us to protect our citizens.
 Jack Mehok, his wife and four families own the cottage across the street, 8000 W. 146th Ave. Read his letter. **Attached**
 Pam Mehok, neighbor of the restaurant. It is a wonderful restaurant, but has serious concerns with this variance. The sale of alcohol will be ten (10') feet from our fence. Problem with the boats backing in front of their property. Concerned with water rights. **Letter Attached**
 Mike Toth, President of South Shore Improvement Association, sent in a letter. Had a subdivision meeting, concerns with trespassing on their property and selling alcohol on the lakefront. Ninety-seven (97) residents in the

subdivision. Have buoys out to mark swimming area on west side of pier.
Letter Attached

- d) Building Department's Comments: Tim Kubiak stated he sees some pros and the nature of the lake and the resort atmosphere. Also sees concerns with the amount of people in a small area. Sees the point of people in boats not having to cross the street to buy beer. People are going to drive to Wisconsin to have their beer on the boat if that is what it takes. The type of building is a concern on a small piece of property. Definitely a unique request.
- e) Board's Discussion: Jeff Bunge stated the beverage sales would be with Mr. Frey's business and the kayaks/paddle board rentals a different business. Mr. Frey stated yes. They would use the same parking lot. Mr. Bunge expressed concern with not enough parking. Discussion on if boat slips are rented out and how they are being used. Would like to use the slips for incoming customers and do less rentals. Wants to have respect for this community and would not do anything to harm the lake. Mr. Frey stated this has been zoned B-2 for forty (40) years. John Kiepura stated concerns for a business in a garden shed. Needs more than electricity, should have running water and a foundation. No parking, sees more foot traffic since will need to park across the street. Ordinance states needs to have a six (6) ft fence between residential and business. Not a good spot for a business. David Austgen stated have two variances to consider, a variance of use that will go to the Town Council and the other a developmental variance. The variance can be approved when you determine the approval will not be injurious to the public health, safety, morals and general welfare of the town. Use and value of the area adjacent to the property included in the variance will not be affected in a substantial adverse manner. The strict application of the terms of the zoning ordinance were resolved in practical difficulties in use of the property. With regard to the use variance the criteria is, approval may be made only when there is a determination in writing that the approval will not be injurious to the public health, safety, morals and general welfare of the town. Use and value of the area adjacent to the property included in the variance will not be affected in a substantial adverse manner. The need for the variance arises from some condition peculiar to the property involved. The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship, if applied to the property for which the variance is sought. The approval does not interfere substantially with the comprehensive plan of the town. Those are burdens of the petitioner, those are your standards objectively for a decision or determination you will make. Reported the court of appeals decision in Riverside vs. City of Jeffersonville where the court of appeals made it very clear that your decisions on variances must have connection to these findings and not specifically by reference as we do most of the time, but by customization. Nick Recupito brought up parking requirements. Tim Kubiak stated for every two patrons one parking space. David Austgen stated there is no parking on the subject parcel. Tim Kubiak stated the paddle board rental will be more daytime during the week, his busy times are Thursday evening through the weekend. People will not be paddle boarding at night. Could be a conflict on the weekends. Also concerned with parking. Michelle Bakker stated the Fire Chief does not want any parking to the east side by the chain link fence for fire access. Hours of operation for rentals would be 9:00 a.m. to 4:00 p.m. and the alcohol side would be weather permitting on weekends and for special events. Tim Kubiak stated the Town does not enforce the excise rules. Jeff Bunge expressed concern with public safety and the impact of increased boat, foot and vehicle traffic. David Austgen stated the Board does not have to make a decision tonight, one option is to make a deferral, for further review. Tim Kubiak stated he is at the Plan Commission for a Site Plan.

A motion was made by Jerry Wilkening and seconded by Nick Recupito to defer both requests to the September 14, 2017 Public Meeting.

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

- 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: _____

Nick Recupito	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote

7. Jeff Bianchi-Developmental Variance

Owner/Petitioner: Jeff Bianchi, 8209 Lake Shore Drive, Cedar Lake, IN 46303
Vicinity: 8209 Lake Shore Drive, Cedar Lake, IN 46303
Legal Description: Pt. SE.1/4 NE.1/4 S.22 T.34 R.9 L'ng N. of Lake 0.521Ac
Tax Key Number(s): 45-15-22-286-003.000-014

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title VIII-Residential (R-2) Zoning: E. Building Coverage: Not more than twenty-five (25%) percent of the area of the lot; Title XXIII-Accessory Regulations: Section 1: A. 2. Accessory Buildings: There shall be a grade level determinate as 6" below floor surface. Exterior wall height shall not exceed ten (10') feet from the finish floor surface. Lot Size 15,000-1.00 acre; Maximum Accessory Size 1,000 square feet; 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; 6) no buildings shall exceed fourteen (14) feet in height

This Developmental Variance to allow the Petitioner to have a garage with entertaining space and bathroom with a height of twenty (20') feet; 2,100 sq. ft. basement/garage, 1,300 sq. ft. first floor; three (3') foot side yard; lot coverage over twenty-five (25) 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 Mr. Bianchi. Came to their office to discuss a one (1) lot subdivision and his petition and what he was asking for. Wants a structure for entertainment space and garage space. Would like to construct a second accessory structure. He would like to build a structure of 2,100 sq. ft., twenty (20') feet high, and would be just over on lot coverage. From the street side it would appear to be a residential type structure. Discussion on the grade change of the driveway. Does have a helicopter and would like to keep that inside. That is the reason for the size of the accessory structure. The entrance from the road would have a large open space with a bathroom. This structure will be further away from the property line than the previous structure. Asking for a three (3) foot side yard. Mr. Huls explained they are taking two (2) metes and bounds parcels and adding them together calling them lot 1 and dedicating right of way. At some point during the transfer of properties, someone accepted the north thirty (30) feet of this property, it originally went to the center of Lake Shore Drive and somebody accepted it. The petitioner according to their attorney does not own it, but do have occupation rights. Suggesting the lot that remains will have a thirty (30) foot dedication across the front.
- c) Remonstrators: None
- d) Building Department's Comments: Tim Kubiak stated concerns with the three (3) foot side yard. This is an improvement from the previous structure.
- e) Board's Discussion: Discussion on elevations and height of structure ensued.
- f) The structure cannot be made any narrower due to the rotors on the helicopter. The Board discussed driveway location. Concerns with will everything be ready for the one (1) lot subdivision for the Plan Commission Meeting. Any action should be contingent the plat approval by the Plan Commission.

A motion was made by Jerry Wilkening and seconded by John Kiepura to approve as presented contingent the approval of one (1) lot subdivision by the Plan Commission and to include the findings of fact.

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

Public Comment: None

Adjournment: Time: 9:11 p.m.

Press Session: Board of Zoning Appeals Meeting – September 14, 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.