



**TOWN OF CEDAR LAKE
BOARD OF ZONING APPEALS PUBLIC MEETING
MINUTES
November 9, 2017 7:00 P.M.**

Call to Order (Time): 7:00 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 October 12, 2017 Public Meeting Minutes as presented.

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

Old Business:

1. Justin McLean-Developmental Variance

Owner/Petitioner: Justin McLean, 7408 W. 142nd Ave., Cedar Lake, IN 46303

Vicinity: 7408 W. 142nd Ave., Cedar Lake, IN 46303

Legal Description: Wilson's Cedar Lake Sub lot 19 & W.1/2 of lot 18 & Sans Souci Park Lot 20 & W.35ft of Lot 18

Tax Key Number(s): 45-15-35-127-049.000-043

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; B. 3) Fences shall not be constructed of chain link adjacent to any street.

This Developmental Variance is to allow the Petitioner to build a six (6') ft. chain link fence in a front yard on a through lot with zero setback

- a) Attorney to Review Legals: David Austgen stated the legals are in order and a hearing may be conducted.
- b) Petitioner's Comments: Justin McLean, 7408 W. 142nd Ave., Cedar Lake, IN 46303. Was here last month wanting to put up a chain link fence. It was suggested I look into a privacy fence. Would like to match it to the existing fence. Is willing to put up a six (6') ft. semi privacy fence. Mr. McLean stated just wants to keep people off his property, they use it as a cut through.
- c) Remonstrators: None
- d) Building Department's Comments: Tim Kubiak, stated still has some concerns with a fence in the front yard, if houses are built on each side would have a fence in their front yard. This is a unique situation. Mr. Kubiak suggested the fence be set back off the road. We have to consider future development on vacant lots.
- e) Board's Discussion: Nick Recupito and Jerry Wilkening asked for clarification of the location of the fence. Mr. McLean stated it would be approximately three (3') ft. from the road. Jerry Wilkening expressed concerns with snowplows and pushing the snow into the fence. John Kiepura stated the fence should be thirty (30') ft. from the road. Jerry Wilkening stated if it was set thirty (30') ft. off the road it would not be in the front yard. Discussion on hardship issues and how far off the road it should be located. Jerry Wilkening stated we need to set precedence. John Kiepura asked if there was any change if he went for a one (1) lot subdivision, Tim Kubiak stated no it is still a through lot. Jerry Wilkening asked if we know where the exact property line is, could it be in the right of way. David Austgen asked Tim Kubiak if the same affect that is being sought by this petitioner be made or achieved with landscaping instead of fencing? Michelle Bakker stated the shrubs could not

be over three (3') ft. tall. Mr. McLean suggested he would bring it back six to eight (6 to 8') ft. He does not want to cut the yard in half. Discussion ensued by the Board on how far to put the fence. Jeremy Kuiper asked if he would be willing to go fifteen (15') ft. off the property line. Mr. McLean stated he would. Jeremy Kuiper stated he thinks the petitioner has a legitimate hardship with security issues and people walking through his lot, thinks we can come up with some compromise, is good with fifteen (15') ft. The Board discussed the type of fence.

A motion was made by Jeff Bunge and seconded by Jerry Wilkening to approve a six (6') ft. fifty (50%) percent open privacy fence twenty (20') ft. off the northern property 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

Jeff Bunge amended his motion and it was seconded by Jerry Wilkening to approve the Developmental Variance with a six (6') ft. fifty (50%) percent open privacy fence fifteen (15') ft. off the northern property 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

New Business:

1. Adam Minick-Developmental Variance

Owner/Petitioner: Adam Minick, 13930 Hobart St., Cedar Lake, IN 46303
Vicinity: 13930 Hobart St., Cedar Lake, IN 46303
Legal Description: Shades Add Cedar Lake Plat A BL.3 Lots 5 to 9 & 42 to 46
Tax Key Number(s): 45-15-26-478-033.000-043

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XXIII-Accessory Regulations: Section 1: A.2) Lot Size 15,000-.00 acre. Maximum Accessory Size 1,000 sq. ft.; 4) No accessory buildings shall be allowed in the front yard of any residential lot; 7) Metal and post building types of construction shall not be permitted in this Residential Zoning District as a Primary or Accessory use.

This Developmental Variance is to allow the Petitioner to build a 30' x 37' post frame garage, 1,110 sq. ft. in a front yard on a through lot

- a) Attorney to Review Legals: David Austgen stated the legals are in order and a public hearing may be conducted.
- b) Petitioner's Comments: Adam Minick, 13930 Hobart St., would like to build a garage that would be one hundred and ten (110') ft. over the footage allowed. Would like a place to store his boat, garbage cans and truck. Will make the garage match his house.
- c) Remonstrators: Constance El-Amin, 3932 Deodar St., East Chicago, IN 46312. Wanted clarification on location of property to hers.
- d) Building Department's Comments: Tim Kubiak stated his lot is 125' x 200', Windsor street is not existing at this time, dedicated and unimproved. It is very rough terrain, not much chance it will be improved. He is asking for a post frame building and it is a through lot so it is considered the front yard. Tim Kubiak asked if he could move the structure thirty (30') ft. off of Windsor in the chance the road was ever improved. Discussion of location of the garage ensued.
- e) Board's Discussion: Discussion on surveys and easements ensued. Tim Kubiak stated he would like to see the back of the building remain thirty (30') from the property line, concerned with possible future development in the area. Has plenty of room to make this work. Concerns with survey not being a staked survey. There are other properties in the area with similar garages.

A motion was made by John Kiepura and seconded by Jeff Bunge to approve the Developmental Variance as presented with a setback of thirty (30') ft. off of Windsor Street and to include the findings of fact.

Nick Recupito	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
No	No	Yes	Yes	Yes	3-2

2. FFC Fencing-Developmental Variance

Owner: Sarah Scieska, 9913 W. 150th Ct., Cedar Lake, IN 46303
 Petitioner: FFC Fencing, 15080 Wicker Ave., Cedar Lake, IN 46303
 Vicinity: 9913 W. 150th Ct., Cedar Lake, IN 46303
 Legal Description: Lynnsway Unit 3 Lot 138
 Tax Key Number(s): 45-19-04-226-023.000-057

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XXI-Fence Regulations-Section 1: A. No fence shall be located in the front yard

This Developmental Variance is to allow the Petitioner to have a five (5') ft. privacy fence in the front yard on a through lot with a zero (0') ft. setback

- a) Attorney to Review Legals: David Austgen stated the legals are in order and the public hearing may be conducted.
- b) Petitioner's Comments: Deidre Ham, FFC Fencing. Would like to put a five (5') ft. tall fence on the south side of her property.
- c) Remonstrators: None
- d) Building Department's Comments: Tim Kubiak consistent with neighborhood. Still about thirty-five (35') ft. off 151st.
- e) Board's Discussion: None

A motion was made by Nick Recupito 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

3. Paul Wietbrock-Developmental Variance

Owner/Petitioner: Paul Wietbrock, 13129 Polk St., Cedar Lake, IN 46303
 Vicinity: 13129 Polk St., Cedar Lake, IN 46303
 Legal Description: MEYER MANOR 2ND L.1 BL.1
 Tax Key Number(s): 45-15-22-457-045.000-014

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 have a six (6') ft. semi-privacy fence in the front yard with a zero (0') ft. setback

- a) Attorney to Review Legals: David Austgen stated the legals are in order and a public hearing may be conducted.
- b) Petitioner's Comments: Lisa Wietbrock, 13129 Polk St., would like to replace the existing fence.
- c) Remonstrators: None
- d) Building Department's Comments: Tim Kubiak stated this has fire lane access parking along the road. There is new fence put up last year on the opposite of the alleyway. People come through there to access the lake.
- e) Board's Discussion: None

A motion was made by Jerry Wilkening and seconded by Jeff Bunge 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

4. James & Trinda Copeland-Developmental Variance

Owner/Petitioner: James & Trinda Copeland, 13341 Bell St., Cedar Lake, IN 46303
 Vicinity: 13341 Bell St., Cedar Lake, IN 46303
 Legal Description: SHADES ADD. CEDAR LAKE, PLAT 'F' ALL LOTS 29 TO 33 BL.2
 Tax Key Number(s): 45-15-26-203-020.000-043

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XXI Fence Regulations: Section 1: A. 1) No fences shall be located in the front yard

This Developmental Variance is to allow the Petitioner to replace a six (6') ft. privacy fence in the front yard of a corner lot with a zero (0') ft. setback

- 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 Copeland, 13341 Bell St. Bought house twenty-eight (28) years ago, and put in the fence. Starting to replace, did not know needed a permit. Was red tagged and told needs a variance for fence in the front yard. It is fifteen (15') off of 134th Avenue. Replacing with same material.
- c) Remonstrators: None
- d) Building Department's Comments: Tim Kubiak stated there are a couple fences along the roadway in that area. Needs variance for fence in the front yard.
- e) Board's Discussion: Discussion on setbacks ensued.

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.

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

5. Oleg Fedosov-Developmental Variance

Owner/Petitioner: Oleg Fedosov, 6512 W. 130th Ave., Cedar Lake, IN 46303
Vicinity: 12920 Knight St., Cedar Lake, IN 46303
Legal Description: SHADES ADD. CEDAR LAKE PLAT A A S. 15FT. L.1 BL.3 ALL LOTS 2 & 3 BL.3
Tax Key Number(s): 45-15-23-330-016.000-043

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title VIII-Residential (R-2) Zoning District: Section 4: B. 4) On all other streets, a distance of thirty (30) feet

This Developmental Variance is to allow the Petitioner to build an addition with a front yard setback of sixteen (16') ft

- a) Attorney to Review Legals: David Austgen stated the legals are in order, a public hearing may be conducted.
- b) Petitioner's Comments: Oleg Fedosov, 12920 Knight St., want to build brick extension.
- c) Remonstrators: None
- d) Building Department's Comments: Tim Kubiak stated Mr. Fedosov has been working on this for a bit, he has a survey and put a foundation under the existing house. Wants to build a garage to the west of the house right there with a house above. It would make the house twenty (20') ft. longer than it currently is and then the other part would be a garage. That house is the closest to 129th Pl. along that area.
- e) Board's Discussion: Discussion on how far off the road this would be. David Austgen stated this was on the Unsafe Building List, but has been taken off.

A motion was made by Nick Recupito 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

6. Carey VanDerNoord-Developmental Variance

Owner/Petitioner: Carey VanDerNoord, 14846 A & B Carey St., Cedar Lake, IN 46303
Vicinity: 14846 A & B Carey St., Cedar Lake, IN 46303
Legal Description: Lynnsway Unit 2 Lot 61 (14846-A & B Carey St)
Tax Key Number(s): 45-15-33-476-011.000-014

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title IX-Residential Two-Family (RT) Zoning District: Section 4: D. Rear Yard: There shall be a rear yard of not less than twenty-five percent (25%) of the depth of the lot or thirty-five (35) feet, whichever is greater

This Developmental Variance is to allow the Petitioner to build a deck with a rear yard setback of thirty-two (32') 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: Carey VanDerNoord, 7640 W. 95th, Crown Point. Would like to build a bigger deck 12'x12'. Would like to get the setback from thirty-five (35) to thirty-two (32).
- c) Remonstrators: None
- d) Building Department's Comments: Tim Kubiak he put a basement under this house and he could only put a seven (7') ft. deck off the door. There is a thirty (30') ft. easement behind these houses. He is still out of the easement, makes a little more sense with the house being elevated to have the deck. A lot of the other houses are on slabs and just have a patio. Michelle Bakker stated if this was zoned R-2 his rear yard would be thirty-two point five (32.5), but because it is RT it is thirty-five (35).
- e) Board's Discussion: None

A motion was made by Jeff Bunge and seconded by John Kiepura 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

7. Norman Majesky-Developmental Variance

Owner: Henn & Sons Construction, 13733 Wicker Ave., Cedar Lake, IN 46303
Petitioner: Norman Majesky, Grand Prize Cars, Ltd., 13318A Wicker Ave., Cedar Lake, IN 46303
Vicinity: 13318A Wicker Ave., Cedar Lake, IN 46303
Legal Description: N 90FT OF S 118.67FT OF N 503.18 FT OF E 371.25FT OF NE NE S.29 T.34 R.9 .761A.
Tax Key Number(s): 45-15-29-229-025.000-014

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XXII-Sign Regulations-Section1: A. 9. Signs which display any flashing or intermittent lights, or lights changing intensity or color, except signs indicating time or whether conditions

This Developmental Variance is to allow the Petitioner to have an 8'X4' Electronic Message Center on the North side of the 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: Norman Majesky, Grand Prize Cars, 13318 Wicker Avenue, Cedar Lake. Would like to continue upgrading his property. Would like to add a message board to the north side of the building facing McDonalds. Would be an LED sign like a TV screen to show the cars for sale. Wants to promote his business and takes pride in it.
- c) Remonstrators: None
- d) Building Department's Comments: Tim Kubiak stated this is a unique request putting a sign up next to an adjacent property. Not sure about allowing signage to attract business from a neighboring property. Everyone's sign at the front of the property attracts people to the front of the business.
- e) Board's Discussion: Jeremy Kuiper asked if it would be on twenty-four/seven (24/7). He also stated the digital sign restrictions, no flashing of messages or colors that would represent emergency lighting, messages stay on for six (6) seconds, no flashing and no left to right scrolling and restrictions on brightness and times of day. All other electronic signs in Town have the same restrictions. Mr. Majesky stated just wants to send a nice message about the place. Jerry Wilkening asked for calcification of type of message board, is it more like a TV screen. Mr. Majesky stated yes, would like to run it the same hours as McDonalds, to entertain customers in the drive thru. McDonalds is open 6:00 a.m. to 11:00 p.m. Jerry Wilkening stated this is no different then a TV screen, this is very unique. David Austgen asked if we have in our file

what type of equipment he is planning to use? This isn't a message sign, it is like a monitor. Mr. Majesky does not have any brochures at this time, he stopped shopping when he found out he needed the variance. The Board discussed wanting more information on what he is going to put up. They asked if he would be willing to bring more information next month. Discussion ensued on different monitors. This is a unique request and would like to know what type of equipment he is going to use.

A motion was made by Jerry Wilkening and seconded by John Kiepura to defer to the December 14, 2017 Public Meeting and for the Petitioner to bring in more information.

Roll Call Vote 5-0

8. Sandra & Joseph Herman-Developmental Variance

Owner/Petitioner: Sandra & Joseph Herman, 11034 Major Ave., Chicago Ridge, IL 60415
Vicinity: 7429 W. 136th Ct., Cedar Lake, IN 46303
Legal Description: PT. SE. NW. S.26 T.34 R.9 .112A. 50X83X83.48X--X96X31X--FT.
Tax Key Number(s): 45-15-26-185-003.000-043

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title VIII-Residential (R-2) Zoning District; Section 4: Area, Width and Yard Regulations: C. Side yard: On each lot, there shall be two (2) side yards, each having a width of not less than eight (8) feet

This Developmental Variance is to allow the Petitioner to have a side yard setback of one (1') ft. for a four (4') ft. addition to an existing deck

- a) Attorney to Review Legals: David Austgen stated the legals are in order and the public hearing may be conducted.
- b) Petitioner's Comments: Sandra Herman, 7429 W. 136th Ct., Cedar Lake. Would like to put a four (4') ft. addition on her deck. Just found out from previous owners that the survey she had done had an error. Found out she has an additional foot further out from the property, according to the survey the previous owners had done. Mr. Herman spoke to the chief of the fire department and showed him the survey from Mr. Kubal and the chief had no problem with them putting a four (4') ft. addition on. Did provide letters from her neighbors showing they have no issues with her putting the deck addition on. There is a fifteen (15') ft. right of way from her house to the next property. Discussion ensued regarding the easement. Joseph Herman, 7429 W. 136th Ct. Cedar Lake, stated the porch does not stick way out. It is only four (4') ft. They have flowers outside the four (4') ft. section. All of the porch will be within the edging on the property line, would have one (1') ft. Why can't they go around the other side of the house if they put a fence up. The fire chief said there would not be a problem with emergency access. Jeremy Kuiper clarified that the safety issue is to get personnel around the house, not fire trucks.
- c) Remonstrators: Letters Attached
- d) Building Department's Comments: Tim Kubiak stated the building department would have to use the new survey that was submitted, that shows one (1') ft., that would be our legal document. On one side of the deck she would be one point nineteen ft. (1.19 ft.) off the property line and the other side of the deck six point twenty-five ft. (6.25 ft.) The new survey that she brought in that shows the fifteen (15') ft. easement, unfortunately that is not your property. Nobody could build on it, but there was concern if a fence was put up on that western property line. If we allowed everyone in town to build one (1') ft. from the property line, we would have these situations for fire safety. You already have ten (10') ft. of deck and to say you want to add four (4') ft. on just to get more people around your dinner table is not a hardship. Then when you look at the back of the house and you have zero (0') ft. from the property line for the shed and four (4') ft. from the shed to the house, the property is almost all covered except for the driveway. Is a unique situation with the empty lot. A concrete patio could go within one (1') ft. of the property line, it is not a structure, would be able to go across it and not cause any obstruction.
- e) Board's Discussion: Jerry Wilkening stated they would have two (2') ft. from the deck to the property line. Michelle Bakker stated on the east side of the property there is a small shed four (4') ft. from the house and there is an issue for fire safety. The shed is on the property line. Nick Recupito asked if they would be willing to extend the deck going north along the house. Mrs. Herman stated no, due to access to her basement. Mrs. Herman stated they don't have room to get around their table with all nine (9) of them. Nick

Recupito asked if they looked at different tables. There will be no access to get around her house if a fence is put up in the future. Nick Recupito stated the real hardship is trying to get around the table. Discussion on the current setbacks of the deck ensued.

A motion was made by John Kiepura and seconded by Jerry Wilkening to deny the Developmental Variance as presented due to no hardship to allow it to be granted, the area needs to be kept open for safety and emergency access, and effects of adjacent property 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. Tom Schilling-Developmental Variance

Owner/Petitioner: Tom Schilling, 12638 Wicker Ave., Cedar Lake, IN 46303
Vicinity: 12638 Wicker Ave., Cedar Lake, IN 46303
Legal Description: T & J Consolidation Lot 1
Tax Key Number(s): 45-15-20-229-023.000-014

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XXII-Sign Regulations-Section1: A. 9. Signs which display any flashing or intermittent lights, or lights changing intensity or color, except signs indicating time or whether conditions; Section 3: A. C. The maximum sign sizes shall not exceed: 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 91) sign shall be no more than thirty-two (32) square feet in size.

This Developmental Variance is to allow the Petitioner to have a digital LED sign approximately sixty-five (65) square feet in size

- a) Attorney to Review Legals: David Austgen stated the legals are in order and a public hearing may be conducted.
- b) Petitioner’s Comments: None
- c) Remonstrators: Linda Browning, 12640 Wicker Ave., Cedar Lake, lives right next door to where he wants to put the sign. Wants to know how high he is planning to go. Concerned with raising the sign up higher. Not enough room under current sign to put the additional sign. Concerns with the light of the sign shining in her house.
- d) Building Department’s Comments: Tim Kubiak stated he did have a discussion with them when they came in that they have a residential neighbor and they said they would shut it off at 9:00 p.m.
- e) Board’s Discussion: Jerry Wilkening asked for clarification on if the new sign would replace the old sign. Drawing is not to scale. Discussion on type of sign proposed. The petitioner has failed to appear at other meetings in the past. David Austgen asked if we had any communication from the petitioner. Michelle Bakker stated we have not. David Austgen stated that deferral is an option for the Board, but given the work the staff has had to go through to put this meeting together, these public hearings, the records, the time you have expended, perhaps the petitioners should adhere to this also, with a phone call. John Kiepura stated he is tired of people not showing up and being deferred and the work the staff has to do. Our time is valuable we should not have to put up with them not showing up. Tim Kubiak stated the only issue is the extra work that will have to be done by everyone. Removing it from the agenda makes them have to start over.

A motion was made by John Kiepura and seconded by Jeff Bunge to remove this item from the agenda due to failure to appear.

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

10. Joel Wagner-Special Use Variance

Owner: RE Spurlock Inc., 1401 Wilderness Dr., Schererville, IN 46375
Petitioner: Joel Wagner, 1401 Wilderness Dr., Schererville, IN 46375
Vicinity: 12937 Wicker Ave.,Unit D, Cedar Lake, IN 46303
Legal Description: Windy Hill Addition Lot 1
Tax Key Number(s): 45-15-21-301-017.000-014

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

This Special Use Variance is to allow the Petitioner to operate an automobile detail shop

- a) Attorney to Review Legals: David Austgen stated the legals are in order and the public hearing may be conducted. Power of Attorney is in evidence.
- b) Petitioner’s Comments: Andrew Cornelius representing Joel Wagner and RE Spurlock. The car dealership across the lot has a gate between our parking lots, they want to rent it out and make a detailing shop. None of their employees will be parking in our lot. Two (2) or three (3) employees will drive the cars over detail them and drive them back. They will use an existing gate between the parking lots to move vehicles between locations. No additional signs, will do some drain work for washing cars. Hours of operation would be the same as the car dealership.
- c) Remonstrators: None
- d) Building Department’s Comments: Tim Kubiak stated after this building burnt down, they actually put this garage door in there to try to get this type of business. Will need to put in a proper drain for detailing.
- e) Board’s Discussion: Jeremy Kuiper expressed concern with cars sitting in the parking lot waiting to be detailed. Tim Kubiak stated they should include in any motion the number of cars allowed waiting detail. Jerry Wilkening stated that parking lot gets really full. Discussion on whose name the special use should be in, under the owner or Bobb Auto. David Austgen suggested could be for this user only, make specific who the approval is made for, this would aid in enforcement. Hours of operation would be the same as the car dealership. Jeremy Kuiper stated any motions should have a restriction on number of cars waiting, and on user being Bobb Auto Group and no other, no additional signage, hours of operation to coincide with dealership, no employee parking, all detailing work inside.

A motion was made by Jerry Wilkening and seconded by Jeff Bunge to send a favorable recommendation to the Town Council for the Special Use Variance by RE Spurlock to reflect the end user only; hours of operation will be the same as Bobb Auto; end user will be Bobb Auto; no employees parking there; maximum of three (3) cars waiting to be detailed in the parking lot; no detailing done in the parking lot, no additional signage except as permitted and to include the affirmative findings of fact.

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

11. Branch Towers, LLC-Special Use/Use Variance

Owner: KaLee Veldkamp, 7000 139th Pl., Cedar Lake, IN 46303
Petitioner: Branch Towers III, LLC, 1516 South Boston Ave., Ste. 215, Tulsa, OK 74119
Vicinity: 7000 139th Pl., Cedar Lake, IN 46303
Legal Description: PT. N1/2 N1/2 SW.SE. S.26 T.34 R.9 8.1052 Ac
Tax Key Number(s): 45-15-26-451-009.000-043

Request: Petitioner is requesting a Special Use Variance/Use Variance from Zoning Ordinance No. 496, Title VIII-Residential (R-2) Zoning District

This Special Use Variance/Use Variance is to allow the Petitioner to install a new telecommunications facility with a new 150’ monopole tower on a residential R-2 lot with a current residence

- a) Attorney to Review Legals: David Austgen stated the legals are in order and a public hearing may be conducted.
- b) Petitioner’s Comments: Bryan Donely, representing Branch Towers and T-Mobile Wireless. Want to put up a new one hundred fifty ft. (150’) monopole tower. A need for this tower has arose due to customers asking for better service and signal strength. The need is for capacity reasons as well, it is becoming overloaded and residents are not getting reliable service. How will this not be injurious to the public health and safety-wireless technology provides convenient reliable everyday communication to its users. Wireless technology affords vital communication in emergency situations. Discussion on E911 technology. For many residents being able to call 911 is one of the many reasons they own a wireless phone. Support for emergency services is

improved. Back up system for Land Line in event of a disaster. Understands that using existing structures is preferred, there are no viable structures in the coverage area. Discussion on a coverage map ensued. T-Mobile is on all the existing towers in the area. Wireless technology does not have an adverse affect on manners effecting the public health, safety and general welfare; it provides services to emergency personnel to protect the general public. The establishment, maintenance and operation of the proposed facility will be contained within the one hundred by one hundred (100 x 100) lease area that is purposed. Wireless communication does not interfere with any other communication either commercial or private. Have been very sensitive to selecting a site that will minimize the impact of surrounding property. Chosen a site off of main roads and well hidden by existing trees. The facility will be compatible to the existing environment and will not be injurious to the use and enjoyment of surrounding properties in the community. After construction, the facility is unstaffed. There will be no impact on existing traffic patterns nor any traffic hazards or nuisance generated. Maintenance personnel will visit the site once or twice a month after construction. Towers are required to have a fall zone that is located within the boundary of the property. The location of this tower would be one hundred fifty (150') ft. away from any property lines. Normal residential development can proceed in any and all parcels surrounding this location. The improved coverage this site would provide can be considered a benefit to the area. The likelihood of future residential development in this area is minimal due to the rough terrain. Normal use of the surrounding property will not be limited. There is no noise, light or sound generated by this facility after constructed. The proposed facility is in the far northeast corner of the parcel and is in excess of approximately five hundred (500') ft. from any residential structure, other than the landlord. T-Mobile and Branch Communication will abide by the timing restrictions placed on this special use. Adequate utilities, access roads, drainage, and other necessary facility will be provided. Adequate measures will be taken for ingress/egress to minimize traffic congestion. The facility is remotely monitored. Statistics on wireless use were discussed. More facilities will help keep up with the increasing demand for wireless use. There is not really an ordinance that dictates the development of a telecommunications facility in Cedar Lake. The tower being built can handle four wireless carriers.

- c) Remonstrators: Ken Mills, 12725 Dewey St., has no problem with this.
- d) Building Department's Comments: Tim Kubiak stated has no issues, a site plan would be needed. This is a metes and bounds parcel. The roadway is owned by the petitioner, definitely a remote area.
- e) Board's Discussion: Jeremy Kuiper asked how long is a lease and what happens when it expires? Mr. Donely stated a lease is a twenty-five year (25), five (5), five (5) year terms. It is in the lease agreement, that they will remove the tower and return the property to its original form up to four (4') feet below the grade. Discussion on what a monopole construction looks like. Jeremy Kuiper asked if they allow use for municipalities for antennas for repeaters. Mr. Donnelly stated that would be allowed. Questions regarding clarification on what support for emergency services entails. Mr. Donely stated ultimately in an emergency, emergency personnel would have priority of service over citizens. Nick Recupito asked if the Town would have any liability if the tower is left abandoned and the terms of the lease were not upheld. David Austgen stated the Town would not be liable. The ability of the Town to enforce removal would be by virtue of the violation of the zoning ordinance for that equipment to be there and on that property. Jeff Bunge asked about height requirements. Michelle Bakker stated in a residential area it would be thirty (30') ft. Jeff Bunge expressed concerns with it being in an R-2 Zoning District. Discussion on collapse zone ensued. Jeremy Kuiper asked if there is any risk of fire on the tower? Knows it would be pretty much electrical. Mr. Donely stated these do have generator backups, so there is clearly a fuel source there. Jerry Wilkening asked about plans to remove trees and brush. Will just clear what they need and leave the rest. Everything will be enclosed by chain link fence. Discussion on if access to the property needs to be paved. The Board discussed needing a site plan or one (1) lot subdivision. David Austgen stated this is one of the most sophisticated types of petitions you can receive. Probably having received this now and seeing the hour of the night, should probably consider a deferral for review and assessment. A meeting perhaps with the folks about which steps will give you sufficient information to intelligently appropriately certify a recommendation to the Council. Mr. Austgen stated his recommendation is for a deferral. This is a business use and would need a site plan. Discussion on what steps should be taken next. Appear at a Plan Commission Work Session on December 6, 2017 and submit information for engineer review ten (10) days before.

A motion was made by Jerry Wilkening and seconded by John Kiepura to defer until a site plan review and conversation with staff 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: None

Adjournment: Time: 10:38 p.m.

Press Session: Board of Zoning Appeals Meeting – December 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.