



**TOWN OF CEDAR LAKE
BOARD OF ZONING APPEALS PUBLIC MEETING
MINUTES
December 14, 2017 7:00 P.M.**

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

Pledge to Flag:

Roll Call:

Present Nick Recupito

Present Jerry Wilkening

Present John Kiepura

Present Jeremy Kuiper

Arrive Late Jeff Bunge

Present Ryan Deutmeyer, Town Attorney

Present Tim Kubiak, Director of Operations

Absent 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 November 9, 2017 Public Meeting minutes.

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

Old Business:

1. 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

Deferred from November 9, 2017 Public Meeting

- a) Attorney to Review Legals: Ryan Deutmeyer stated the legals are in order.
- b) Petitioner's Comments: None
- c) Remonstrators: None
- d) Building Department's Comments: Tim Kubiak stated he has not heard from Mr. Majesky.
- e) Board's Discussion: Board discussed a possible deferral or remove it from the agenda.

A motion was made by Jerry Wilkening and seconded by Jeff Bunge to defer to the January 11, 2018 Public Meeting.

Roll Call Vote: 5-0

2. 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

Deferred from November 9, 2017 Public Meeting

- a) Attorney to Review Legals: Ryan Deutmeyer stated the legals are in order.
- b) Petitioner's Comments: None
- c) Remonstrators: None
- d) Building Department's Comments: Tim Kubiak stated they attended the Plan Commission Work Session and there was discussion about a one-lot subdivision and private road. Had a few legal questions and had no legal representation at the Work Session so it was deferred to the Public Meeting on December 20, 2017. We told them no sense in coming to this meeting until we get some answers at Plan Commission. Petitioner requested a deferral.
- e) Board's Discussion: None
- f) Recommendation to Town Council:

A motion was made by Jeff Bunge and seconded by John Kiepura to defer until the January 11, 2018 Public Meeting.

Roll Call Vote: 5-0

New Business:

1. Majchrzak - Developmental Variance

Owner/Petitioner: Max Majchrzak, 10008 W. 128th Ln., Cedar Lake, IN 46303
Vicinity: 10008 W. 128th Ln., Cedar Lake, IN 46303
Legal Description: Monastery Woods Phase 1 Lot 138
Tax Key Number(s): 45-15-21-256-010.000-014

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. privacy fence in the front yard of a corner lot fifteen (15') feet from the property line

- a) Attorney to Review Legals: Ryan Deutmeyer stated the legals are in order.
- b) Petitioner's Comments: Max Majchrzak, 10008 W. 128th Ln., would like to go fifteen (15') feet from the house to the sidewalk with a six (6') ft. privacy fence. Would like to put in a pool and would like as much backyard as possible fenced in. Mr. Majchrzak stated he had no say in where his neighbor put his fence, so why should he have to ask the neighbors permission. Tim Kubiak stated the neighbor followed the ordinance and put it in the proper location.
- c) Remonstrators: None
- d) Building Department's Comments: Tim Kubiak stated this fence would actually be in the front yard. The person the next street over put up a four (4') ft. fifty (50%) percent open fence with a twenty (20') ft. setback from the sidewalk which follows the ordinance. Likes to see those side roadways open. Tim Kubiak stated he can put a fence straight off his house without a variance.
- e) Board's Discussion: Nick Recupito asked if there was a reason Mr. Majchrzak could not meet the current ordinance requirements. He stated no. Discussion ensued on site lines down the street. Tim Kubiak explained the ordinance to the petitioner. Jeff Bunge and Jerry Wilkening stated it is about site lines and esthetics of the neighborhood. Nick Recupito stated he sees no hardship, the petitioner is creating his own hardship. The Board discussed different options with the petitioner and he was not willing to compromise. Mr. Majchrzak stated he would sell his house before he put up a four (4') ft. fence. That would not give him any privacy. He is not willing to line up to his neighbors fence. Tim Kubiak asked if it is a twenty (20') ft. setback or nothing, the petitioner agreed. Discussion on what has been allowed in other neighborhoods ensued.

A motion was made by John Kiepura and seconded by Jerry Wilkening to deny the Developmental Variance as presented.

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

2. Burrink - Developmental Variance

Owner/Petitioner: Robert Burrink, 8501 W. 131st Ave., Cedar Lake, IN 46303
 Vicinity: 8501 W. 131st Ave., Cedar Lake, IN 46303
 Legal Description: Meyer Manor 3rd Blk 1 Lots 1 & 2
 Tax Key Number(s): 45-15-22-452-045.000-014

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. privacy fence in the front yard with a zero (0') ft. setback

- Attorney to Review Legals: Ryan Deutmeyer stated the legals are in order.
- Petitioner's Comments: Robert Burrink, 8501 W. 131st, would like to put in a fence for security purposes, however it is considered a front yard. Have had equipment stolen out of the yard. Would be a gray pvc fence.
- Remonstrators: Glen Burke, 13109 Polk St., if he puts a six (6') fence three (3') ft. from his house, would block him in. No other privacy fence in the area. The six (6') ft. covers half of his window. Tim Kubiak stated he can actually get a permit to put the fence three (3') ft. to Mr. Burke's house with a six (6') ft. fence, along the property line. Mr. Kubiak clarified the location of the fence for Mr. Burke. Trying to close off so people can't walk through. Mr. Burke does not want him on his property.
- Building Department's Comments: Tim Kubiak stated this is a fire lane access down to the lake. This is very consistent with what is going on in this area of the lake. This fire lane gives people access to the lake and they end up on their property.
- Board's Discussion: The Board discussed the location of the fence and the consistency in the area. The Board assured Mr. Burke he cannot put anything on his property. Tim Kubiak stated Mr. Burrink would need to stay ten (10') ft. from the water.

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	Abstain	4-0

3. Wahlberg - Developmental Variance

Owner/Petitioner: Fred Wahlberg, 5706 W. 133rd Ave., Crown Point, IN 46307
 Vicinity: 13405 Bell St., Cedar Lake, IN 46303
 Legal Description: SHADES ADD. CEDAR LAKE PLAT F. L.33, BLOCK 11 and SHADES ADD. CEDAR LAKE PLAT F. LOT 34, BLOCK 11
 Tax Key Number(s): 45-15-26-209-006.000-043 and 45-15-26-209-005.000-043

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XXIII-Accessory Structures-A. 4) No accessory buildings shall be allowed in the front yard of any residential lot.

This Developmental Variance is to allow the Petitioner to put an 8' x 12' shed in the front yard with a seventeen (17') foot setback

- Attorney to Review Legals: Ryan Deutmeyer stated the legals are in order. Power of Attorney is on file.
- Petitioner's Comments: Chase Whitt, 13405 Bell St., rents the property from Mr. Wahlberg. Wants to put a shed, six (6') ft. from the neighbors and ten (10') ft. from the house.
- Remonstrators: None
- Building Department's Comments: Tim Kubiak stated he is asking to put a shed in his front yard. There are a couple other properties with similar

situations. He basically has no back yard, no garage and no other space to put it. If he puts it anywhere else, he would not get close to a six (6') ft. setback from the road or the separation.

e) Board's Discussion: None

A motion was made by Jerry Wilkening and seconded by Nick Recupito 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. Ramsay/Milnamow - Developmental Variance

Owner/Petitioner: Carol Ramsay, Susan Milnamow, 8420 W. 146th Pl., Cedar Lake, IN 46303
 Vicinity: 8420 W. 146th Pl., Cedar Lake, IN 46303
 Legal Description: COFFIN'S 2ND. SHADY BEACH L.3 & PT. VAC. RR R. OF W. ADJ. L.3
 Tax Key Number(s): 45-15-34-403-019.000-014

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XXIII-Accessory Structures-Section 1:A. 4)
 There shall be a minimum six (6) foot setback from any and all side and rear property lines

This Developmental Variance is to allow the Petitioner to put an 8'x12' shed one (1') ft. from the property line/fence

- a) Attorney to Review Legals: Ryan Deutmeyer stated the legals are in order.
- b) Petitioner's Comments: Carol Ramsay, 8420 W. 146th Pl., would like to put a shed in the back yard as close to the property line as possible. The yard is small and slopes.
- c) Remonstrators: None
- d) Building Department's Comments: Tim Kubiak stated they have a very limited area to put a shed. The angle of the ground and they don't want to put it in the middle of backyard where the stump is, would block the view of the lake.
- e) Board's Discussion: Jeff Bunge expressed concerns with maintenance between the fence and shed. Nick Recupito would rather see a two (2') ft. setback from property line. Tim Kubiak also stated two (2') ft. would be better, that could put the roof over the property line.

A motion was made by Jerry Wilkening and seconded by Jeff Bunge to approve the Developmental Variance to put an 8'x12' shed two (2') ft. from the property line/fence 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. Healy - Developmental Variance/Special Use Variance

Owner: Nancy Healy, 8561 Fair Oaks Ln., St. John, IN 46373
 Petitioner: Nancy Healy, 8561 Fair Oaks Ln., St. John, IN 46373
 Vicinity: 13125 Lake Shore Dr., Cedar Lake, IN 46303
 Legal Description: MEYER'S SUBDIV CEDAR LAKE N30FT LOT 12 & LOT 13 LY'G E OF PUBLIC HWY EX E312.5FT and MEYER'S SUBDV.CEDAR LAKE W.37 1/2FT.OF E.312.5FT.OF L.13 W.37 1/2FT.OF E.312.5FT.OF N.30FT. L.12 and MEYER'S SUB. CEDAR LAKE W. 75 FT OF E. 275 FT OF LOT 13 & W. 75 FT OF E. 275 FT OF N. 30 FT OF LOT 12
 Tax Key Number(s): 45-15-23-377-001.000-043; 45-15-23-377-002.000-043; 45-15-23-377-003.000-043

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XXII-Sign Regulations-Section 1: A. 9. Signs which display any flashing or intermittent lights, or lights changing intensity or color. Title XXVII-Off Street Parking: M. Required Spaces: Restaurants: 1 space for every 2 patron seats; O. 1) A minimum area of two hundred (200) square feet shall be provided for each vehicle parking space; Title XIII-Community Business (B-2) Zoning District-Section 5: B. Front Yard; 3) All streets designed as a part of the Federal Aid Urban System, as delineated by the State Highway Commission, a distance of fifty (50) feet; 4) All other streets, a distance of thirty (30) feet; C. Side

Yard: 4) All interior lots shall have two (2) side yards, each having a width of not less than twelve (12) feet.

This Developmental Variance is to allow the Petitioner to have a digital sign; 24 parking spaces nine (9') ft wide; build a deck on a corner lot with a front yard setback of 13.3 ft. off of 131st and forty-six (46') ft. from Lake Shore Drive, side yard setback of 3.7 ft.

- a) Attorney to Review Legals: Ryan Deutmeyer stated all notices are properly given.
- b) Petitioner's Comments: Rich Healy, would like to put a Rosati's Pizza at this location. Will put in a new sign mount, in same location on same pole. Will have additional sign on building. An elevated deck for outdoor dining. Busiest time is from 5:00 p.m. to 7:30 p.m. Hours of operation open till 11:00 p.m. on Friday and Saturday, rest of week till 10:00 p.m.
- c) Remonstrators: Attorney Jennifer Irons Jostes, 13321 Wicker Ave., Cedar Lake, representing Brian Kubal and his opposition. Jennifer Bellamy from the Gleaners is here as well. Concerns with twenty-four (24) parking spaces with eighty-four (84) seats. She stated Title 27 Section 4 n. which is restaurant with drive through or pick up facility. Eighty-four seats requires forty-two (42) parking spaces, plus because of the carry out, you have one (1) space for every fifteen (15) square foot of customer area. The best guess from these plans is another one hundred seventy (170) square feet, so that is another eleven (11) spots. In addition to those spots you need one (1) space for every two (2) employees. That totals sixty-one (61) spots required under the ordinance. Discussion on how many possible employees ensued. 10' x 20' is the required spot size, the request is for a nine (9') ft. wide spot in the front lot. The back lot spots are shortened to eighteen (18) ft. Clearance for larger vehicles would be only about six (6") inches. Assuming everyone parks exactly in their parking space, you could get out of your vehicle, but not everyone does that. It will be difficult to get car into a space that size. Three (3) of those spots are parallel parking along the side of the building. Title 27 Section 4h. says that parking spaces shall not be located in a side or front yard adjoining a street. Tim Kubiak stated some of these older buildings have this grandfathered in. The request for the variance for the thirteen point three (13.3) ft. on that side from the deck to the edge of the road, that nine (9') ft. parking space that falls in that thirteen point three (13.3) ft. setback means you will have four point three (4.3) ft. total for that car to be sitting on the side of the building. This would make it difficult to exit the vehicle. Also, Title 27 Section 4 O. 6; parking area located less three (3') ft. from the property line of a lot in a residential district shall be screened by a wall, fence or hedge of no less than five (5') ft. tall. This is a residential neighborhood. Also in Section 4 O. 10; says that a parking area that adjoins a public street or alley requires a planted buffer at least five (5') ft. wide. There is no way to put the parking spaces in and cover all the requirements in the ordinance. Another concern is that back lot being set up as a two (2) way parking spot. It is required a twenty-five (25') ft. access road in between. That would need to be added to the variance. On the end parking spaces have a twenty (20') ft. buffer zone, so you can get out, as drawn there is no way for the cars to get out. The bottom line for Mr. Kubal is this design is not functional. Rosati's would be a great addition to the Town, but there is not enough parking. If parking is not there, they will park in his tenants lots. Mr. Kubal has been dealing with the overuse of this property for years.
Bruce Dust, 15159 98th Ave., Dyer, IN, owns the two (2) houses across the street and is definitely opposed to the sign. The blinking lights are going to disturb the people in the homes. Been a neighbor there for twenty (20) years and that parking lot has always been a problem. Opposed to the deck and outside dining, too much noise.
Candy Pigg, 13113 Fairbanks, Cedar Lake, owns Town Club Tavern next door, main concern with the parking. Does not have enough parking for their patrons to park. Does not see a need for the sign, will shine right into the house.
- d) Building Department's Comments: Tim Kubiak stated they want a digital sign, parking spaces nine (9') ft. instead of ten (10') ft., they are proposing a deck for outdoor dining. Previous business had permission for outdoor dining. Tim suggested they talk to an engineer regarding the parking plan.
- e) Board's Discussion: Jeremy Kuiper stated requirements for a digital sign: no scrolling left to right, message on for six (6) seconds, no flashing that mimics emergency vehicles, dimmed fifty (50%) percent at dusk. Discussion on parking plan ensued, concerns with patrons backing onto Lake Shore Drive to leave the parking lot. Discussion on the elevation of deck. Aaron Hacker,

contractor for Rosati’s stated he understands there are a lot of new variances, but we are not changing the business, not adding many seats. Trying to make the place look nicer, put a lot of money into the parking lot to make it bigger, adding jobs to town. Feels like it should be grandfathered in. Mr. Healy stated as far as the carry out side, some of that they fix with technology. Two (2) things happen for carry out, don’t want a bunch of people waiting in the restaurant. Have a system where they text the customer and tell them their pizza is ready. Parking is limited, and we are stuck with it. Tim Kubiak stated need to do some fine tuning and get a parking plan that works, this will have an effect on the decision for the outdoor dining. The twenty-four (24) spots is insufficient to add more dining outside. This is fifty (50) percent less than what is needed. If can come up with some type of flowable parking space and people can get in and out of there, it would make more sense. The overflow would park in surrounding business lots. Jeremy Kuiper stated it wouldn’t be wise to take anything into account until we see everything together with a different parking plan. Not comfortable making any decision on any of the requests, recommends a deferral until some of the issues can be addressed. John Kiepura stated parking is the biggest issue and would like to see the light issue addressed on the sign. The Board suggested a deferral. Nick Recupito stated we would love to see a successful business brought to Town, but will bring more cars. Discussion ensued on other possible parking solutions.

A motion was made by Jerry Wilkening and seconded by John Kiepura to defer the Developmental Variance and the Special Use Variance to the January 11, 2018 Public Meeting at the request of the Petitioner.

Roll Call Vote 5-0

This Special Use Variance is to allow the Petitioner to have outdoor dining and alcohol

- 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:		2 nd :			
Nick Recupito	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote

Public Comment: None

Adjournment: Time: 9:13 p.m.

Press Session: Board of Zoning Appeals Meeting – January 11, 2018 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.