



**TOWN OF CEDAR LAKE
BOARD OF ZONING APPEALS
PUBLIC MEETING MINUTES
February 8, 2018 7:00 P.M.**

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

Pledge to Flag:

Roll Call:

Absent 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 Jerry Wilkening to approve the January 11, 2018 Public Meeting Minutes as presented.

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

Old Business:

1. 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.

Deferred from December 14, 2017 Public Meeting

Deferred from January 11, 2018 Public Meeting

- a) Attorney to Review Legals: David Austgen stated this a continued public hearing.
- b) Petitioner's Comments: Rich Bowman, 8561 Fair Oaks, St. John, IN. Were able to secure parking for employees at the church. Will park employees at Faith Church and use delivery drivers to bring them back and forth. Changed deck tremendously, wants the front to look nice. No seating at this time, maybe use for smoking and an exit. Will have less seating than the previous tenant and will have more parking then before. Occupancy would fifty-two (52), the deck would be eight ft. (8') instead of twenty-seven ft. (27') and not looking for outdoor dining. Mr. Bowman brought video of how the sign can be

adjusted. Will have two (2) signs one a message board. Business hours they close at 10:00 p.m. on weekdays and 11:00 p.m. on Friday and Saturday. Is possible to dim the sign when they close. Mr. Bowman expressed they will have a lot of families coming in one car. And they are working on finding additional parking.

- c) Remonstrators: Jennifer Irons Jostes on behalf of Brian Kubal. Has done extensive research and have not found any ordinances that would support the grandfathering. It may be practiced, but nothing to support it. If the Board decides to make a favorable recommendation on that basis and allowing the business to continue operating as a restaurant, we will continue to make objections at the next level to the Town Council. If the Board decides to grandfather, my client would like some assurances there would be no deck. It was stated in the minutes the variance would only be for the sign, if there were no deck. Clients concern is that with the deck there will continue to be more people and the intent is to eventually put seating out there. How do we police that and make sure there is adequate parking when they are significantly far away from what they need. This plan has one (1) handicap spot for sixty-eight (68) people. Not sure that is ADA compliant.
- d) Building Department's Comments: Tim Kubiak stated the eight ft. (8') deck is not going to affect the parking. It will make a nice entrance. This will be a nice upgrade and make the building look nicer. Continues to be an issue with the parking, it is not supported by the ordinances, and client will continue to object.

Bruce Dust, 13124 and 13126 Lake Shore Drive, across the street. Opposed to the brightness of the sign and the additional seating the deck would bring. Concerned with parking problems and additional noise.

John Stullburg, partner with Town Club Tavern, opposed to the deck and concerned with parking in his lot.

Steve Matijevich owns property at 7210 W. 131st, next to the restaurant property. Wants to keep the peace with everybody. Only other option is to tear the building down, if they improve it is good for all of us. Supports this business, cannot go against each other.

- e) Board's Discussion: Discussion ensued on how to adjust the sign brightness and the hours it would be on. Petitioner suggested shutting it off the message Board at 1:00 a.m. The sign would automatically adjust. Mr. Bowman showed the board a picture of a sign they have at another location. They will not take away any parking with the eight ft. (8') deck, and there will be no outdoor dining. John Kiepora expressed concern with the parking and grandfathering. Michelle Bakker stated if the property is vacant for six (6) months and the same type of business comes in, it will be in compliance. If a different use for the property comes in, it will need to meet current ordinances. Jeff Bunge asked for clarification on number of parking spaces. The petitioner stated there are twenty-five (25). Tim Kubiak stated he knows the neighbors have concerns with the parking on both sides, the business has been used as this type of establishment for how many years, and based on the scope that this is going to be a more successful business then previous were. They did have issues in the past, they have legitimate concerns with the parking. This petitioner has the burden of controlling their patrons and not letting them park in surrounding lots. Even though he has capacity for sixty-eight (68) and there is no parking, people will leave. Mr. Kubal has several properties next door to this property that has new tenants in as of recent, there are a lot of things in those buildings that aren't up to current standards. They are good buildings and usable, but do not meet today's standards. There is no way we can make this building meet all of today's standards. Jerry Wilkening clarified what the petitioner is now asking for. They want an LED sign, less occupancy, than the last business and more parking than the last business. Tim Kubiak stated the only question is the deck on the front going to expand on the use of this property. Without outdoor dining it will be used as an entrance and exit. Jerry Wilkening stated the overhang and new façade is going to be the deck in the front is going to be incorporated as a porch. If there are people waiting outside to get a seat and they have parked in the wrong spot, it is on them. Tim Kubiak stated it is a tough thing, but if we upheld today's standards, there will never be another building occupied again, without completely rebuilding. Jerry Wilkening stated he has less occupancy and more parking, so this is only better. Mr. Wilkening stated he is seeing more pros than cons. Jeremy Kuiper stated the Boards whole existence is to determine whether there are variances to be granted based on our finding of fact and the one that sticks out is: the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. Like Mr. Kiepora stated we would need spots to be the correct size and amount, it doesn't allow for any use of that property. The occupancy are less and the parking is more, we are not going backwards at all for the use of that building. Would like to see the

digital portion of the sign turned off at some point during the night. John Kiepora asked for clarification on if he was not going to put the deck on, he would only need a variance for the sign. If he was just here for the sign, none of this parking or occupancy would come into play. Jeremy Kuiper stated that is correct. Tim Kubiak stated he would have to fill out an occupancy permit to the Town and put the parking he has available to that building. That is kind of what we have done with several other businesses. He came in to put the front porch on, and everyone agreed the twenty-four ft. (24') deck would be a stretch of the use of the property. Discussion ensued on the brightness of the sign and capability of dimming it.

Jerry Wilkening stated that the approval will not be injurious to public health, safety, morals and general welfare of the community. The use of the business and approval will not adversely affect the adjacent properties. The need for the Variance arises from conditions particular to the property involved. The hardship would be not able to meet current standards.

A motion was made by Jerry Wilkening and seconded by Jeff Bunge to approve the digital sign with following criteria: no scrolling from left to right; turned off an hour after closing; be dimmed at least fifty percent (50%) at night; no flashing lights to mimic emergency vehicles; six (6) second message; twenty-four (24) parking spaces, nine ft. (9') wide; build an eight ft. (8') deck on a corner lot with a front yard setback of 13.3 ft. off of 131st and sixty-two ft. (62') from Lake Shore Drive; side yard setback of 3.7 ft. and to include the findings of fact.

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

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

- a) Attorney to Review Legals:
- b) Petitioner's Comments: The petitioner has withdrawn the petition for the outdoor dining and alcohol.
- c) Remonstrators:
- d) Building Department's Comments:
- e) Board's Discussion:
- f) Recommendation to Town Council:

Motion: _____ 2nd: _____

Nick Recupito	Jerry Wilkening	John Kiepora	Jeff Bunge	Jeremy Kuiper	Vote

2. 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
Deferred from December 14, 2017 Public Meeting
Deferred from January 11, 2018 Public Meeting

- a) Attorney to Review Legals: David Austgen stated this is a continued public hearing.
- b) Petitioner's Comments: Norm Majesky, Grand Prize Cars, 13733 Wicker Ave. Looking to put up an LED sign or fancy TV. Just want to show cars for sale, will be willing to put town events on the board and entertain the people in

McDonald’s drive thru. Will be doing pictures of the cars, it will not be very bright. Will link it to their website. Would have it on the same hours as McDonalds. Approximately 6:00 a.m. to midnight. Spoke to the operational manager of McDonalds and he thought it was a great idea.

- c) Remonstrators: None
- d) Building Department’s Comments: Tim Kubiak stated this is an odd request. Been by there a few times and does not have a complete problem with it, but do not want to see TV screens everywhere you look. It is a thirty-two square ft. (32 sq. ft.) sign. If this is something that becomes a great idea and they want to put them everywhere. Should be one hundred percent (100%) limited to cars and possible messages for Town events, like a pancake breakfast for the Fire Department.
- e) Board’s Discussion: Jeremy Kuiper stated the area is very well lit and it would not intrude on the area. Discussion ensued on different locations for this sign. Jerry Wilkening stated what is unique is where he wants to put it. Needs to be limited to cars and local events. John Kiepura stated it is not to sell advertising for other businesses. For clarification, would have advertising for his business and possible Town events. The hours it would be on would be 6:00 a.m. to midnight. Typical restrictions for signs, no scrolling left to right, no flashing or mimicking emergency vehicles, dimmed at night, six (6) second messages.

John Kiepura stated the value of the property adjacent to the variance will not be affected in an adverse manner.

A motion was made by John Kiepura and seconded by Jerry Wilkening to approve the 8’x4’ electronic message center on the north side of the building and for the message board to be only used for his business and possible Town events, no scrolling, six (6) second messages, dimmed at night, no flashing to mimic emergency vehicles and to include the findings of fact.

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

3. Mori-Developmental Variance

Owner/Petitioner: Drew & Cheryl Mori, 14503 Lakeshore Dr., Cedar Lake, IN 46303
Vicinity: 14503 Lakeshore Dr., Cedar Lake, IN 46303
Legal Description: SOUTH SHORE SUB. LOT 75
Tax Key Number(s): 45-15-35-302-002.000-043

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

This Developmental Variance is to allow the Petitioner to add a 6’x8’ attached mudroom and 24’x22’ attached garage to existing house with a lot coverage of approximately thirty-five (35%) percent and side yard setback of less than eight (8’) 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: Drew Mori, 14503 Lake Shore Dr., was to put the mudroom and garage attached to the house. Mudroom attached to the house so can put garage on an angle.
- c) Remonstrators: None
- d) Building Department’s Comments: Tim Kubiak stated this is interesting, took pictures. The current house is one and half ft. (1 ½’) off the southern property line. The new proposed garage would probably be similar and the close point. Main concern is the tightness of what he has to work with. Has thirteen ft. (13’) from his existing garage. He is four ft. (4’) off the south property line. Only has thirteen ft. (13’) to drive down the side of the garage, the deck is on the property line. It would be impossible to back out of the garage and turn around without going onto the neighboring property. Planning on keeping his existing garage. If he could acquire the neighboring property there would be no problem. Will have a ten ft. (10’) separation between the garage and new building. It is a very tight situation. Putting a lot into a small spot. The driveway is supposed to be two ft. (2’) off the property line. Looking into the future and the lot next to him is for sale, that would leave a nine ft. (9’)

separation between structures. With a four ft. (4') side yard setback, you will not be able to get out the garage door.

- e) Board's Discussion: Jeremy Kuiper asked what the need for the garage is. He does not see this happening in the existing space. Tim Kubiak stated he cannot add on to the current garage without putting a foundation on. Would rather see something done with the existing structure. Mr. Mori stated would like to have an attached garage. Would use other garage for boat house. Existing garage was built in 2002. Mr. Mori would be willing to eliminate the mudroom if that would help. Discussion on the width of the driveway ensued. There would be enough room for an eight or nine ft. (8' or 9') driveway. Jerry Wilkening stated he is not liking the precedence this would set. Jeremy Kuiper stated this seems like a lot for this lot. Discussion ensued on what an accessory structure is. The Board suggested getting rid of the current garage or adding on to the current garage. John Kiepura expressed concerns with too much on this property and would not be able to maneuver a vehicle in and or. It is too close to the property line. Jeff Bunge stated it is a peculiar lot, but that is a lot for the space.

A motion was made by Jerry Wilkening and seconded by John Kiepura to defer to the March 8, 2018 Public Meeting per the request of the petitioner and based on the finding of facts.

Roll Call Vote: 4-0

New Business:

1. Pawel Najda-Developmental Variance

Owner/Petitioner: Pawel Najda., 5707 W. 151st St., Oak Forest, IL 60452
Vicinity: 13933 Fairbanks St., Cedar Lake, IN 46303
Legal Description: Shades Add. Cedar Lake Plat A BL.2 Lots 31,32,33 & 34
Tax Key Number(s): 45-15-26-477-048.000-043

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

This Developmental Variance is to allow the Petitioner to build a 20' x 26' garage with a six (6') ft. rear yard setback and eight (8') ft. side yard setback on a lot on an unimproved road with no primary structure

- a) Attorney to Review Legals: David Austgen stated publications in the newspaper are in order, missing some green cards. Any motion should be contingent verification of green cards.
- b) Petitioner's Comments: Pawel Najda, lives in Oak Forest, Illinois. Wants to build a garage on his vacant property to store jet skis and boats. Wants to build a house on this property in the next five (5) years.
- c) Remonstrators: None
- d) Building Department's Comments: Tim Kubiak stated there is no road and no primary structure. In order to put a future house, the road would have to be brought up to current Town standards. The road is like a trail or dirt path. Michelle Bakker stated the cost of improving a road is expensive.
- e) Board's Discussion: Discussion on if he would be willing to improve the road. This is an unimproved platted road. He would have to put the road in if he wants to build there. David Austgen stated it would seem completely legally inconsistent with your codes and requirements at this time based upon the lay of the land. John Kiepura stated we cannot do anything without a road there. Tim Kubiak stated this would be a bad precedence to set, putting an accessory structure on a lot with an unapproved road.

A motion was made by John Kiepura and seconded by Jerry Wilkening to deny the request due to the fact there is not an approved road and to include the findings of fact.

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

2. Prodigy Construction-Special Use Variance

Owner: RSC Properties, LLC, 1743 W. 131st Ave., Crown Point, IN 46307
Petitioner: Prodigy Construction, LLC, PO Box 1374, Crown Point, IN 46308

Vicinity: 10501 W. 133rd Ave., Lot 5, Cedar Lake, IN 46303
Legal Description: CEDAR LAKE INDUSTRIAL PARK LOT #5
Tax Key Number(s): 45-15-28-130-005.000-014

Request: Petitioner is requesting a Special Use Variance from Zoning Ordinance No. 496, Title XVI: Light Industrial (M-1) Zoning District

This Special Use Variance is to allow the Petitioner to run a commercial carpentry company with an office, warehouse space to store tools, carpentry materials and small equipment and vehicles

- a) Attorney to Review Legals: David Austgen stated the legals are in order and a public hearing may be conducted.
- b) Petitioner’s Comments: Ron Carraher, currently has a business in Crown Point and looking to move to Cedar Lake.
- c) Remonstrators: None
- d) Building Department’s Comments: Tim Kubiak stated that every use in the industrial park is required to come to the BZA. He is remodeling the office space, this is the perfect location for this type of business.
- e) Board’s Discussion: Discussion on business hours, Monday-Friday 7:00 a.m. to 3:00 p.m. No fabrication at this site. Twenty-five to forty (24-40) employees, they do not report to this location. Approximately three (3) people on site at a time to pick up tools.

A motion was made to send a Favorable Recommendation to the Town Council for the Special Use Variance for Prodigy Construction to run a commercial carpentry company with an office, warehouse space to store tools, carpentry materials and small equipment and vehicles and to include the findings of fact.

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

Public Comment: None

Adjournment: Time: 9:10 p.m.

Press Session: Board of Zoning Appeals Meeting – March 8, 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.