



**TOWN OF CEDAR LAKE  
BOARD OF ZONING APPEALS  
PUBLIC MEETING MINUTES  
April 12, 2018 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 Jerry Wilkening to approve the March 8, 2018 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. Jacob-Developmental Variance**

Owner/Petitioner: Donald D. Jacob, 12539 Parrish Ave., Cedar Lake, IN 46303

Vicinity: 12539 Parrish Ave., Cedar Lake, IN 46303

Legal Description: Decker (Re-Sub of Lot 2) Lot 1

Tax Key Number(s): 45-15-21-229-006.000-014

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XXIII-Accessory Regulations: Section 1: A. 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.

***This Developmental Variance is to allow the Petitioner to add a roof to an existing deck five ft. (5') from the existing garage***

- a) Attorney to Review Legals:
- b) Petitioner's Comments:
- c) Remonstrators:
- d) Building Department's Comments:
- e) Board's Discussion: Jeremy Kuiper stated we have a letter dated 3/16/18 that states I Donald Jacob wish to withdraw my petition, Thank you Donald Jacob

A motion was made by Jeff Bunge and seconded by John Kiepura to withdraw this petition at the petitioner's request.

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

**2. McClymont-Developmental Variance**

Owner: Eileen Butcher, 10600 White Oak Avenue, Cedar Lake, IN 46303

Petitioner: Bobby McClymont, 3725 W. 105<sup>th</sup>, Crown Point, IN 46307

Vicinity: 13913 Lakeview Point Rd., Cedar Lake, IN 46303

Legal Description: LAKEVIEW POINT LOT 3

Tax Key Number(s): 45-15-27-476-002.000-014

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title VIII-Residential (R-2) Zoning District: Section 4: B: Front Yard: 4) On all other streets a distance of thirty (30) feet; 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 ; D. Rear Yard: There shall be a rear yard on not less than twenty-five percent

(25%) of the depth of the lot; 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 have a front yard setback of twenty ft. (20'), one (1) side yard setback of five ft. (5'), a rear yard setback of twenty-three ft. (23') and lot coverage over twenty-five percent (25%)***

- a) Attorney to Review Legals: David Austgen stated this item has been continued properly.
- b) Petitioner's Comments: Gerald Fankhauser (Trey), attorney representing the owner, Eileen Butcher. Believes there may be some issues with Lot 3. To address the legal description of the property and have pulled this from the Auditors office and the warranty deed. Mr. Fankhauser gave an explanation of the documents he brought. Lot 3 in the Glendenning subdivision they own ten ft. (10') south of that lot 3 line, there is no ownership directly east in the Lakeview subdivision and that would be Eileen Butcher, which is the property the variance is requested. Believe there is a mix up with the two (2) different lot 3. David Austgen asked them to clarify and tell the board why, they contend and the documents support the ownership of lot 3. Presumes the position is that they own without impediment, without easement, walkways, they own Lot 3 in Lakeview Point. Mr. Fankhauser stated Lot 3 in Lakeview Point is what Ms. Butcher owns. The description of Lakeview Point matches the warranty deed from the Lake County Records Office. Mr. Austgen stated that the platted description in a packet of materials that was also provided there continues to be shown there is a hatch marking that is on a Plumb Tuckett & Associate Plat that is sign and sealed, and thinks this is the ten ft. (10') of access that is the contingent. Mr. Fankhauser continued to explain the documents he brought. The confusion is that there are two (2) Lot 3's. David Austgen continued reviewing and explaining the documents. Bob McClymont, 3725 W. 105<sup>th</sup>, Crown Point. The discussion last month was about someone owning part of Eileen's lot, and they were going to show proof and we had to show proof. Did not think it was an easement, but a part of the property. Mr. Austgen asked us to show proof that we owned it and we have. Now I assume they need to show proof they own part of our lot. Seems there is confusion on which lot 3.
- c) Remonstrators: Dave Godzecki, 13919 Lakeview Point Rd., owns lot 4, immediately south of the lot in questions. Issue with the side lot variance on the property line. Mr. Godzecki explained there is a five ft. (5') easement that goes along the side of lot 4 on the south end. On the north end of the outlot of 4 there is a five ft. (5') easement and then a five ft. (5') easement to allow the Michels to get to the pier. The easement is not on lot 3. January Michels, 13939 Huseman St., the gentleman was right when he said I own, not an easement the south ten ft. (10') of lot 3, that is next to her, not on their lot. The issue comes in on the part of lot 3 that is on the west side of the street. She purchased that property when she purchased the home, brought in records to prove it was purchased to the street. When the survey came in it was questioned. Spoke to her attorney and was told to get an addendum that the property goes to the street or not sign the paper work, and get it accepted by the title company. That is what she did. She discussed the paperwork she brought and does have a claim number showing her property is in dispute. Believes everyone thinks they bought it legally, just wants what she paid for. Originally her survey had the easement on lot 3 instead of lot 4, she had to have it fixed. David Austgen stated they are only seeing the hand marked document. This pure legal confusion, a document that is clean and becomes marked opens all sorts of questions. Needs the five ft. (5') to use her golf cart, so against side yard variance. Gary Robertson, 13901 Lakeview Point Rd., owns lot 1 and 2. Lot 3 sold to Eileen Butcher. What Ms. Michels is claiming, so does not own that piece. It is not recorded she owns it and does not show on the GIS, does not show on any surveys. The nine lots when the developer bought, you could see clearly where they are. Ms. Michels lot stops all the way at the top of the hill. Have had talks with her about it, the guy that owned it before allowed her to walk down the steps. She had to sign a paper that there was no liability if she fell on the steps. She does not want anyone to build there to ruin her view. If she wanted it should have bought it. How is there a question. Jeremy Kuiper responded there is a question because she has produced some legal documentation claiming she has a right to lot 3. Mr. Robertson stated he went through everything that was recorded and it does not mention it. Mr. Kuiper stated recording makes is available to the public, it does not mean legally it didn't happen. Mr. Robertson stated the easement on lot 4, starts at the street and runs to the water, it is in the recording, not

legal. Jerry Wilkening stated we have twenty (20) pages of documents that we need to go through and weigh out our liability. Should not be an issue. No objections to the variance.

Eric Lindemulder, 13941 Huseman St., concerns with the variances on the front yard and side yard, all the houses are very close together and other people have had to stay with the seven ft. (7') side yard. Already very crowded on this street. Prefers not to over fill the lot.

January Michels, 13939 Huseman St., the gentlemen that sold them the lot was aware of the problems with the lot. Dr. Shaw said that the last six ft. (6') of the steps was something he wanted to make sure he had insurance in case somebody got hurt that I would take responsibility of it. He originally planned to build a cottage on the lot that was sold. I have in writing and signature from him giving me ten ft. (10') easement on lot 3 and the bottom of my hill. His brother never signed it and the lot was owned by both of them and I never recorded it. Discussion ensued on Ms. Michels tried to buy the lot and it fell through. Just trying to protect the interest in her property.

Gary Robertson, 13901 Lakeview Point Rd., again Ms. Michels knows she does not own it. I have a permit to put a fence across this property, got a variance to do this. Everytime someone comes to look at this property, she stands there and yells bad lot, trying to keep the lot open. Mr. Kubiak has been there and seen her do this. She does not want anyone to block her view. This lot has been for sale since 2011, my realtor will tell you she chases everyone away. I offered her the property, she does not have the money. David Austgen stated Mr. Robertson is stretching a little past 918.4 that is Indiana Code Section that contains the objective criteria by which this Board will consider this matter. Think we have heard both sides of the story.

- d) Building Department's Comments: Tim Kubiak asked since the home is being built on the lot 3 on the other side of Lakeview Point Road and they did apply for that 25% lot coverage is this something that we need to determine as a Town, the home is being built on the east side of lot 3, if they included the other lot 3 they wouldn't need the variance for lot coverage. The piece of property is really not being affected by this. David Austgen stated that would be entirely up to the Board. Tim Kubiak stated even if there is an easement on lot 3 in the other subdivision it will not affect the lot 3 in the Lakeview Point subdivision. Mr. Kubiak asked if they had any problems with the lot 3 across the street, no claims on anything across Lakeview Point Rd. Ms. Michels stated no just concerned with if they build to close to the easement line, will have a hard time using the golf cart she needs due to having MS. They do have a ten ft. (10') drainage easement on the north end of the property, that is why they are squeezed down on space. The side yard is completely a side yard, would be a judgement call. The front yard, with the way that building line curves around it does make it hard to keep the thirty ft. (30') building line. Where they are planning on putting the house it keeps it in line with other property.
- e) Board's Discussion: The Board discussed which piece of property was in question and the lot coverage portion of the variance. Jeremy Kuiper asked for clarification, on any action taken by the Board, in his ability to pulling a building permit do anything to these documents. David Austgen stated it is still clouded. Tim Kubiak stated if this plat was presented in a normal circumstance I would be comfortable giving a permit. If they are granted a variance for the twenty-eight percent (28%) lot coverage and their front yard setback. Discussion ensued of needing a property survey. Jeremy Kuiper asked the Board if they feel comfortable seeing the rest of the variances brought before us with what we have heard and contingent of lots, or is this a question for Mr. Augsten? David Austgen stated you have a bunch of documents, January 23, 2018 site plan, but is not a survey per say, although Glen Kracht has signed it and sealed it. However it does not appear on this site plan that there is a reference to any easement to the Michels from the owner of this parcel. Do have the hatch marked, hand marked item, the legal descriptions is ferreting itself out and lot 3 in Lakeview Point is different from lot 2 and the south ten ft. (10') of lot 3 in Glendenning Hotel site and lot 4. They are clearly distinct legals. You probably have enough information if you are comfortable. It not you can review all these documents. Jerry Wilkening stated the question for the deferral last month was how many lot 3's are there. Jeremy Kuiper stated to be clear the lot that they purchased toward the lake side is a residential zoning, a buildable lot and if weren't here for variances on front yard and side yard, would be able to build a residence there. Tim Kubiak stated the little easement point in question; by no means does the house or any of this project even come into contingent with that area. If the house was going over the area in question, it would be a different situation. Jerry Wilkening stated if lot 4 has seven ft. (7') of side yard, then lot 3 should have seven ft. (7') of side yard. Nick Recupito asked for clarification,

the portion of the lot that is on lake is sufficient to have this variance request for lot coverage of twenty-five percent (25%). Tim Kubiak stated they will need the variance request to exceed twenty-five (25%) of lot coverage if the portion across the street was not included in their calculations. This is a unique situation. The buildable lot is lot 3 on the lake side. David Austgen stated you cannot cross the street with any construction, so only the buildable portion can be used. Jerry Wilkening asked if using the lot by the lake as standing alone, the decision to grant these variances or not. The property dispute then becomes not the Town's liability. Mr. Austgen stated this is not the Town's problem and will not be the Town's liability. Jeff Bunge stated he realizes this is unique shaped lot, thinks they should maintain the seven ft. (7') side yard. John Kiepura agrees with the seven ft. (7') side yard. Looks like a lot more property than there is because of the meander line. They have designed the house to fit into the lot. If it is pushed back another eight or ten ft. (8 or 10) it will be in the lake. Will have to make the house two ft. (2') skinner to keep the seven ft. (7') side yard. Discussion ensued on the twenty ft. (20') front yard setback.

A motion was made by Nick Recupito and seconded by Jerry Wilkening to approve the Developmental Variance to allow the Petitioner to have a front yard setback of twenty ft. (20'), seven ft. (7') side yard, rear yard setback of twenty-three ft. (23') and lot coverage over twenty-five percent (25%) per presented plan and to include the findings of fact.

Nick Recupito does not feel the approval will be injurious to the public health, safety, morals or general welfare of the community.

The use and value of area adjacent to the property will not be affected in an adverse manner.

The strict application of the zoning ordinance as amended from time to time will result in practical difficulties for the use of this property.

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

**New Business:**

**1. Ramirez-Developmental Variance**

Owner/Petitioner: Stacey & Ryan Ramirez, 13415 Fairbanks St., Cedar Lake, IN 46303  
Vicinity: 13415 Fairbanks St., Cedar Lake, IN 46303  
Legal Description: Shades Add Cedar Lake Plat E BL.2 Lots 1,2,3,4,17 & 18  
Tax Key Number(s): 45-15-26-229-001.000-043

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title VIII-Residential (R-2): Section 4: B. Front Yard: 4) On all other streets, a distance of thirty (30) feet.; C. Side Yard: 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 build a new home replacing home destroyed by fire with a fifteen ft. (15') front yard setback and a side yard setback of approximately 11.7 ft. off of 134<sup>th</sup> Pl.***

- a) Attorney to Review Legals: David Austgen stated the legals are in order, the public hearing may be conducted.
- b) Petitioner's Comments: Ryan Ramirez, 13415 Fairbanks St. Looking to demolish old home that was destroyed by fire and replace it with a new home. Will be more conforming to Town codes. Will be a bit smaller than old house.
- c) Remonstrators: None
- d) Building Department's Comments: Tim Kubiak stated these guys have been living a nightmare since the fire. The existing house did not look that terrible, but it came to light there were problems everywhere. The foundation and structure are not good. They are improving on the location of the house on the lot and it is consistent with the area.
- e) Board's Discussion: Jeremy Kuiper asked if it was going to be anymore noncompliant then previously. Tim Kubiak stated no, it will be straightened up and put on the property nicely. Jeff Bunge asked if the garage was still existing. It is.

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.

Jerry Wilkening stated the approval will not be injurious to the public, healthy, safety or morals and the general welfare of the community.

The adjacent property will not be affected in a substantial or adverse manner.

The strict application of the terms of the zoning ordinance as amended from time to time will result in in practical difficulties of the use of this property.

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

2. Stenger-Developmental Variance

Owner/Petitioner: Larry Stenger, 10819 W. 133<sup>rd</sup> Ave., Cedar Lake, IN 46303  
Vicinity: 10819 W. 133<sup>rd</sup> Ave., Cedar Lake, IN 46303  
Legal Description: PT. NW. NW. (112 X 330 FT.) S.28 T.34 R.9 Ex.N.35ft in R/W 0.829 A.  
Tax Key Number(s): 45-15-28-105-007.000-014

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XXIII-Accessory Regulations: Section 1: A. 2) Lot Size 10,000-15,000 SF; Maximum Accessory Size 800 square feet; Height 14'

***This Developmental Variance is to allow the Petitioner to put a 600 sq. ft. addition onto an existing garage with a height of 15 ft. and total size of structure of 1,800 sq. ft.***

- a) Attorney to Review Legals: David Austgen stated the legals are in order and the public hearing may be conducted.
- b) Petitioner's Comments: Larry Stenger, 10819 W. 133<sup>rd</sup> Ave. Requesting a six hundred sq. ft. addition (600 sq. ft.) with a height of fifteen ft. (15'). Adding twenty feet (20') to current garage. Setbacks are consistent with what is there.
- c) Remonstrators: None
- d) Building Department's Comments: Tim Kubiak stated it is a pole barn in existing area. Side walls are within the ten ft. (10') requirement, just oversized. There is plenty of rear yard setback, he is in the commercial corridor. No issues with this. Mr. Stenger is in a B-3 Zoning. He has followed all the proper steps.
- e) Board's Discussion: Jerry Wilkening asked for clarification on survey and request. Mr. Stenger explained the survey was old and there is only some old existing concrete left. Discussion ensued on size, height and location of pole buildings. Concerns of accuracy of survey were expressed. Tim Kubiak stated it is fine for what he is doing.

A motion by Jerry Wilkening and seconded by Jeff Bunge to approve the Developmental Variance as presented and to include the findings of fact.

Mr. Wilkening stated the approval will not be injurious to the public health, safety, morals and general welfare of the community.

The use and value of the area adjacent to the property will not be affected in a substantial or adverse manner.

The strict application of the terms of the zoning ordinance as amended from time to time will result in in practical difficulties of the use of this property.

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

3. Yoder Buildings-Special Use Variance

Owner: Cedar Lake Commercial, PO Box 657, St. John, IN 46373  
Petitioner: Yoder Buildings of NWI, 551 South Washington, Valparaiso, IN 46383  
Vicinity: 12615 Wicker Ave., Bldg. 1, Cedar Lake, IN 46303  
Legal Description: Pt. NW.1/4 S.21 T.34 R.9 Ly'ng between RR & Rt. 41 20.99Ac  
Tax Key Number(s): 45-15-21-101-020.000-014

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

***This Special Use Variance is to allow the Petitioner to run a sales office and use the parking lot for storage shed building display and to have multiple businesses on a lot in a Community Business (B-2) Zoning District***

- a) Attorney to Review Legals: David Austgen stated the legals are in order.
- b) Petitioner’s Comments: None
- c) Remonstrators: Eric Lindemulder, 12634 Wicker Ave., has no problem with the business going in there. Would like to see this property cleaned up and want to know how many sheds will be in the parking lot. Want things to look nice.
- d) Building Department’s Comments: None
- e) Board’s Discussion: Board discussed whether to defer or deny.

A motion was made to send an unfavorable recommendation to the Town Council for Yoder Buildings of NWI to run a sales office and use the parking lot for storage shed building display and to have multiple businesses on a lot in a Community Business (B-2) Zoning District due to lack of attendance at Public Hearing for submission by Petitioner.

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

4. Philpot-Special Use Variance

Owner: US 41 Properties, 13018 Wicker Ave., Cedar Lake, IN 46303  
Petitioner: Thomas Philpot, 8770 Winding Trail, St. John, IN 46373  
Vicinity: 13019 Wicker Ave., Cedar Lake, IN 46303  
Legal Description: S.200ft of N. 30RDS. OF S. 130RDS. OF W. 80RDS. OF SW. S.21 T.34 R.9 3.2A.  
Tax Key Number(s): 45-15-21-301-019.000-014

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

***This Special Use Variance is to allow the Petitioner to build a concrete patio for outdoor dining and alcohol***

- a) Attorney to Review Legals: David Austgen stated the legals are in order and a public hearing may be conducted.
- b) Petitioner’s Comments: Thomas Philpot, 8770 Winding Trail, St. John. Asking for approval for an outdoor patio at Gelsomos’s Pizza. Would extend out the front twenty ft. (20’) by twenty-six ft. (26’) then along the side of the building add six ft. (6’) so would have ten ft. (10’) along the side with a fence. Will have concrete ballerds every ten ft. (10’) along the side and every six ft. (6’) in the front.
- c) Remonstrators: Phillip Novak, 13020 Wicker Ave. Seems to be a positive thing for the area.
- d) Building Department’s Comments: Tim Kubiak stated this is about the third time we have had this request and it has never been finished. The main thing would be what he has already presented by putting in the concrete ballerds for public safety. Do the measurements go up to the front door? Mr. Philpot stated about five ft. (5’) from the front door. They have plenty of parking for that facility. Maybe a form of no parking on the south side of the building.
- e) Board’s Discussion: Discussion ensued on the number of handicap spaces needed and on parking along south side of the building. The Board agreed to no parking along the south side and the addition of no parking signs. Jeremy Kuiper asked if they were having any outdoor entertainment, this is strictly for dining. Mr. Philpot stated this is just for dining.

A motion was made by John Kiepura and seconded by Jerry Wilkening to send a favorable recommendation to the Town Council to allow the petitioner to build a concrete patio for outdoor dining and alcohol with the following stipulations: concrete ballerds six ft. (6’) apart in the front of building and ten ft. (10’) apart on the south side of the building and install no parking signs on south side of parking lot, replace one (1) handicap parking space if necessary and to include the findings of fact.

John Kiepura stated this approval will not be injurious to the public health, safety, morals and general welfare of the community.

The use and value of the area adjacent to the property will not be affected in a substantial or adverse manner.

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

5. Midwest PGM-Special Use Variance

Owner: Richard C. Thiel, Jr., 11363 W. 135<sup>th</sup> Pl., Cedar Lake, IN 46303  
Petitioner: Midwest PGM, 13513 Industrial Dr., Cedar Lake, IN 46303  
Vicinity: 13513 Industrial Dr., Cedar Lake, IN 46303  
Legal Description: Cedar Lake Industrial Park Phase 2 Resub of Lots 9 to 12 Lot 1  
Tax Key Number(s): 45-15-28-178-005.000-014

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 increase the amount of vehicles stored on the property from the current variance of ten (10) to one hundred (100) vehicles***

- a) Attorney to Review Legals: David Austgen stated the legals are in order.
- b) Petitioner’s Comments: Richard Thiel, Jr., 11363 W. 135<sup>th</sup> Pl. When got variance in 2012, were on two (2) acres and were not purchasing cars too much. Since then have purchased two (2) more acres and getting it resubdivided to a four acre lot. Currently with the amount of vehicles we are purchasing from tow truck companies and people getting rid of their vehicles it comes to around one thousand three hundred (1,300). This is about one hundred (100) a month. Not in the business to store vehicles, are a scrap company. If it is sitting there it is not making them money, need to move the vehicle. Can’t control the two (2) vendors sell vehicles to, that go to a shredder. When their shredder breaks, cannot move the vehicles at all. Needs to be able to store some of them when that happens. Probably when purchased the other property should have came back because we have had over the ten (10) several times. Trying to keep current with it now, are trying to build a 30’x64’ building strictly for processing the vehicles. This will speed up the process. When they process, they drain the fluids out of the vehicle. Bought an enviro rack that is all air operated, drains fuel tanks, oil and all the fluids. Take all the refrigerant as far as freon out of them. Right now the rack is outside, so when the weather is bad don’t work outside. Would like to put that in the new building. Do not shred on site, only crush.
- c) Remonstrators: Attorney Randy Wiley, Law firm of Weiser & Wiley, 429 W. Lincoln Hwy., Schererville, In. In opposition to the variance. Have submitted a written remonstrance to the Town earlier this week. Represents Summer Winds Development that just got a 105 lot subdivision approved in the Town just to the east of this development. Homes ranging from \$250,000 to \$300,000 will be built on this property. Also south of our lot we believe is another lot that will be coming in as another residential application to the Town of approximately two hundred (200) homes right next to where this is at. Had a petitioner come in stating he has already been in violation of this for the last five (5) years. I supplied the minutes from the last time he was here in 2012, what he told you was there is no glass in the vehicles, the fluids and tires are removed all before it gets to his site. All of that was obviously untrue. Today he comes and tells something different. He stated five (5) years ago he would be limited to ten (10) cars. He has stated he has had one hundred (100) cars there already with no repercussions or violations, people go out and look at it and that is all that happens. That will not be doable with a new subdivision going in next door. Ask yourself how you would feel if there was a car crushing operation one hundred ft. (100’) from your back yard. Would the value of your house go up or down. That is just one (1) of the requirements of the statue 919.4 substantial adverse effect. Have supplied in his written remonstrance the letter from Bill McCabe a respected relator in Lake County saying it would be a substantial adverse affect to our property. The last time he was here he said the cars come on get crushed they get taken off three (3) at a time on a trailer. Now today he says he doesn’t know when they get taken off. Hope will make the written remonstrance as part of the record. The pictures show what it will look like from our property. No fencing or berming around the property of a recycling property. Would assume this is in violation of the ordinance to have an industrial site with no fence. As such the general health, safety and welfare of this community would be adversely affected if

this is continued to be allowed to happen. It appears he has already begun concrete driveways on the parcel. Tim Kubiak stated the building has been applied for and the driveways were approved with the original site plan. Concerns with semis pulling onto 133<sup>rd</sup>. The noise will be detrimental to the Town and to the mostly to our property. When they hear one hundred (100) cars being crushed a day. The value to our neighbors will be a big problem; it will have an adverse effect to the value of the properties and will be injurious to the health and general welfare. What is unique to this lot for this variance? Would ask an unfavorable recommendation be given to the Town Council and again stated 367-4-918.4. Residential is moving westward. Jeremy Kuiper asked if his client knew he was building a subdivision next to an industrial property. The client had never been there, Mr. Kuiper you are right it was there, what is the greater good, do you want three hundred (300) homes that can't be sold or one hundred (100) cars sitting on a lot for a guy that has already admitted to being in violation. He has to meet all five of the criteria.

Bryan Kuiper, 6904 W. 145<sup>th</sup> Ave., representing a part time employee at Illiana Auto, which is adjacent in the industrial park. In favor of the industry. It is an industrial park, a locked gate. The Town does not own this roadway, maintained by the industrial park. Talking about detrimental to health, there every day, the noise, McAllister, Ozinga, the dust they create is way worse than the cars sitting on the lot. People are bring their cars here to be properly disposed. If that doesn't happen, where do we put these cars? When my neighbor has a car sitting there with no plates and no registration, is it going to sit there and leak oil on my property or should we take care of it properly. When you move to a house you are aware of your surroundings, a railroad track is not going to move because you put your house next to them. The airport is not going to move its runway because you moved next to the runway. An industrial park is industry and a part of the growth in the town. Wants to put a favorable recommendation in for his request, in lieu of these vehicles are being properly disposed. If it is noise they are worried about it is not just the scrap yard, there is a construction company and concrete company that creates more noise and dust.

Dave Boersma, 10501 Industrial Dr., representing him and his father, John Boersma. Own property next to the scrap yard and are definitely with them. What is a car, if they take the tires off and it doesn't run, it still looks like a car, but it no different than a mountain of steel. Seems likes a hundred cars (100), whatever, he is busy over there. Everyone wants the Town to have businesses. As far as the subdivision, they bought it, it was there. The dust will be worse than them crushing cars. They are doing a great job over there. Putting in a favorable review.

- d) Mr. Thiel responded with if he would have gotten out of his car, he would have seen there is a fence on the back of the property. It is eight ft. (8') tall, with privacy slats, and concrete blocks eight ft. high (8'). As far as detrimental to anyone's health, did present the findings from IDEM, someone complained that there was oil spilled on the ground. When they came out and did their walk through, they found no oil on the ground. Presented everything to them on what we do with the oil and refrigerant. They came back for the final walk through they told me to keep doing what I'm doing. So if this is IDEM, I'm trying to figure out how this could be detrimental to anyone's health. If anything, saving people's health because of the fact it is not leaking into someone's back yard. If you are worried about a \$200,000 house losing value, don't build a subdivision in my back yard of an industrial park.
- e) Building Department's Comments: Tim Kubiak as he stated there have been a few times when he has had more than the ten (10) cars, have been over there a few times. Has a lot of scrap and gets it cleaned up. He is trying to address the situation he is in. His business grew faster than he anticipated. There is a lot of daily activity there. Applying at the Plan Commission for a site plan for the new building, started out as an accessory building but has grown into a second use for the business. Trying to utilize the second property he bought. He has cleaned up the property. This is all part of the plan to grow and get back into compliance with the Town. When go out there to count the cars, I count what has four (4) tires. Board's Discussion: Jeremy Kuiper discussed at what point is it a vehicle and at what point is it a bucket of scrap. We don't put a limitation on how much stainless steel he has, it is vehicles. It might be important to figure out what it means for a car that's parked with the use of transportation or tonnage of scrap. David Austgen asked is a car a car if it doesn't move? Mr. Thiel answered technically it is, if it were put through a baler, which will eventually be purchasing, and in a bale form it is no longer considered a vehicle. John Kiepura asked how long does a car typically sit there. Mr. Thiel says there is no specific order on when a



car comes in and goes out. Could be up to one month, depending on how many cars are on the property. Discussion ensued on the property being fenced in. There is approximately an average of fifty (50) cars there a day. Mr. Kiepura expressed concern with the glass still being in the car. Mr. Thiel stated there can be broken glass inside the vehicle after it is crushed. Jeff Bunge expressed concern with a ten (10) time increase in the number of vehicles. Tim Kubiak suggested the site plan should probably happen first and once he shows he can handle this and put it somewhere and make everyone more comfortable with what is going on there. I think it will go hand in hand with this request. Suggests a deferral until the site plan is approved. The site plan would clarify for everybody his intention. Jerry Wilkening stated he believes there is a way for these two (2) things to cohabitate. If you are going to do this in a building, the sound will be the biggest problem, please take that into consideration. To add what you are requested right now without a lot of details, need more information. Jeremy Kuiper stated he is still stuck on what is scrap or a car. What does it matter if a crushed car comes in on a trailer or a load of pop cans. Jerry Wilkening is concerned with the overall capacity, the mountain or piles that would be there. Jeremy Kuiper replied we have not said you can only have a thousand (1,000) crushed cans on your property. Having a hard time that the request is coming in vehicles and what if it was just tonnage of scrap, we don't have anything saying he can only get so many bales of cans in. It is a volume thing, not so much as vehicles. It is scrap and processing of scrap. Tim Kubiak stated that is what comes into play with the site plan with organized bins and actual place for things and when that capacity is met he is done. If everybody he deals with stops buying his materials, then he is done until he gets rid of some stuff. This is the whole point of some type of a controlled environment for the neighbors and for everybody involved. He is making the rights moves here trying to get his stuff organized and get some plan together where there are some guidelines to enforce. There are a lot of things that come into play, believe with this new building and site plan more enforceable guide lines can be followed. David Austgen asked if Mr. Kubiak felt this premature until the site plan is ready so there can be a totality of understanding. They are working on the site plan right now, it is not at the Plan Commission yet. John Kiepura stated once he purchases a vehicle it becomes scrap. He doesn't buy it and sell it. The question is how neat and organized does he keep the yard. Want to know how well organized it will be, so it is not unsightly to the new subdivision. Mr. Kubiak stated he grew faster than anticipated. Jerry Wilkening asked with the new plan would all the processing of the cars be in the new building. Mr. Thiel answered yes, but cars will still be stored outside. Has contacted DVG to do the site plan. David Austgen stated that unless we have objective plans, so far we really don't. Until you have that you are not in a position to have an enforceable set of terms or conditions for the use variance to be considered here. It would seem that this plan is premature and that information is critical off the site plan with the details sighted. Should consider a deferral.

A motion was made John Kiepura and seconded by Jerry Wilkening to defer to the June 14, 2018 Public Meeting per the request of the Petitioner and to have the Petitioner go through the Site Plan Process with the Plan Commission.

**Vote 5-0**

## **6. Monteleone-Developmental Variance**

Owner/Petitioner: Frank & Carrie Monteleone, 113 S. William, Mount Prospect, IL 60056  
Vicinity: 8323 Lake Shore Dr., Cedar Lake, IN 46303  
Legal Description: WHALEY'S SUB. CEDAR LAKE L.1  
Tax Key Number(s): 45-15-22-427-012.000-014

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title VIII-Residential (R-2) Zoning District: Section 3: Height Regulations: The maximum height of buildings and other structures erected or enlarged in this Zoning District shall be two (2) stories, not to exceed thirty (30) feet at its peak; Section 4: Area, Width and Yard Regulations: A. A lot area of not less than ten thousand (10,000-100'x100') square feet, and a lot width of not less than ninety feet (90') at the building line; Section 6: Off Street Parking: There shall be at least two (2) parking spaces **and** Title XXIII-Accessory Regulations: Section 1: A. 4) No accessory buildings shall be allowed in the front yard of any residential lot; 5) 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 build a new home with a lot area of 4,900 sq. ft., width of 25.25 ft., lot coverage of 40%, side yards of 9", height 45', no off-street parking, eaves overhang of five inches (5") from property line, garage located in the front yard with seven ft. (7') front yard setback and side yard of nine inches (9")***

- a) Attorney to Review Legals: David Austgen stated the legals are in order.
- b) Petitioner's Comments: Jack Huls, DVG representing the owners. This is a recorded lot in the Whaley Subdivision. This has a platted width of twenty-five ft. (25'). The existing structure on that property is twenty-three and a half ft. (23 1/2') and would like to make some improvements to that structure. Would in fact like to tear it down and rebuild. There are interesting challenges with this parcel. Mr. Huls referred to some pictures he presented to the Board. What was originally requested was to put a twenty-three and a half (23 1/2) wide building, which would match the existing structure that is there, that is what was used for all the variance requests. As going over, the logistics of that request and what that means does present a number of problems. Want to maintain good relationships with adjacent property owners. Have decided to reduce the width of house to twenty-two ft. (22'). That is a structure that would accommodate the needs of the owner and bring the side yard setbacks down to a foot and a half (1' 1/2"), is very small do have an existing lot that is legal non-conforming.  
Ted Roan, Roan Associates Architects, the existing house is approximately 1250 sq. ft., it is built into the hill. It is a one-story with a walk out basement. Going to set the house in the same location, needs to many repairs and would like to start from the ground up. Will be a three (3) bedroom house with two and half baths (2 1/2) with a covered porch facing the lake. Will be about 1966 sq. ft. Will be adding on to both levels and extending toward the lake, approximately eleven ft. and were careful not to go out past the neighboring property.  
Carrie Grace Monteleone, talking about 8323 Lake Shore Drive. Does live in Mount Prospect, Illinois and is the third generation to own the house. Ms. Monteleone gave a brief description of the history of the house. Would like to fix the house, it has been there for eighty (80) years. It is a very small house and has not had any upkeep. Will also have to work on the retaining wall. Just recently purchased from her parents and would like to keep this in the family for generations.
- c) Remonstrators: Attorney Scott Yahne, 9301 Calumet Ave, Munster. Here on behalf of Jim and Debra Meekma at 8319 Lake Shore Dr. and Bill Daughtery owner of 8327 Lake Shore Drive. Concerns with the height of forty-five ft. (45'). Worried there will be a four (4) story home next to them. Worried about windows looking into another window. Recognize that the existing structure whether built simultaneously it is going to be a challenge to build. There is a reason for a seven or eight (7 or 8) ft. side yard. This will be a new structure and we recognize you cannot get a home with those dimension on that lot. Mr. Yahne reviewed the pictures he presented the Board. Would like some comparison of the roof line to the neighboring homes. Concerns with sufficient green space and water runoff and forty percent (40%) lot coverage. Tim Kubiak stated the current residence already has forty percent (40%) lot coverage. Mr. Yahne stated the current garage is a safety issue and blocks the view of the neighbor.  
Jack Huls responded to Mr. Yahne's questions with the three (3) criteria of a variance, they do not feel making an improvement is injurious to public. Feel that making an investment to increase the value of the property, will increase the neighboring property. It is beneficial to the Town also. Want to be good neighbors and took into consideration the size of the house. Are planning on bringing down the height variance to thirty-eight ft. (38'). Will be consistent with the neighbor's house height. The unique characteristics of the lot contribute to the variance.
- d) Building Department's Comments: Tim Kubiak stated his recommendation was to narrow it to twenty-two ft. (22'). It has been there for this long and will either stay in disrepair or put a new building there. No issues at all. Michelle Bakker stated we added the height because there has been some controversy with where the height is measured from. It obviously would be negative if we went from Lake Shore Drive, so went from the lake. Jack Huls stated typically the height is measured from the center of the road on the front of the house; in this case we would be able to build a one hundred ft. (100') high house. Tim Kubiak stated we will be measuring the height off the lake level basement floor. That is what we have been doing on the lake level houses, that is our interpretation to the ordinance.

- e) Board's Discussion: Jeremy Kuiper asked Tim Kubiak if they were just repairing the property, they would not need variances. Tim Kubiak stated they could repair it. Discussion on the garage ensued. Jack Huls stated the garage will come down to access the lot to do the work and will replace it. Discussion ensued on how much space is between the houses currently and in the plan, where they measure the height of the house was also discussed. The request for the eaves is due to a new ordinance. Jeff Bunge expressed concerns with fencing between properties.

A motion was made by Jerry Wilkening and seconded by Jeff Bunge to grant the Developmental Variance to build a new home with a lot area of 4,900 sq. ft., width of twenty-two ft. (22'), lot coverage of over forty percent (40%), side yards of one foot six inches (1'6"), height thirty-eight ft. (38') (height not to exceed residence to the east), no off-street parking, eaves overhang of fourteen inches (14") from property line, garage located in the front yard with seven ft. (7') front yard setback and to include the findings of fact.

Jerry Wilkening stated this approval will not be injurious to the public health, safety, morals and general welfare of the community.

The use and value of the area adjacent to the property will not be affected in a substantial or adverse manner.

The strict application of the terms of the zoning ordinance as amended from time to time will result in in practical difficulties of the use of this property.

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

7. Kuiper-Developmental Variance

Owner/Petitioner: Jeremy & Michelle Kuiper, 13970 Orchard Dr., Cedar Lake, IN 46303  
Vicinity: 8919 W. 141<sup>st</sup> Avenue, Cedar Lake, IN 46303  
Legal Description: PT. NW. S.34 T.34 R.9 4 A.  
Tax Key Number(s): 45-15-34-126-010.000-014

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title VIII-Residential (R-2): Section 4: Rear Yard: there shall be a rear yard on not less than twenty-five percent (25%) of the depth of the lot **and** Title XXIII-Accessory Regulations: Section 1: A. 2) Lot Size: 2.01 acres or greater; Maximum Accessory Size: 2,000 sq. ft.; Height 16'

***This Developmental Variance is to allow the Petitioner to have a rear yard setback of thirty ft. (30') and an accessory building over two thousand sq. ft. (2,000) with a side wall height of over ten ft. (10') on a lot with no primary structure***

- a) Attorney to Review Legals: David Austgen stated the legals are in order and a public hearing may be conducted. Would like to make the brief record that Jeremy Kuiper the petitioner on this matter is the Chairman of the BZA and he has vacated the diocese, and membership for purposes of his presentation and petition tonight. Jeremy Kuiper stated he has vacated the position.
- b) Petitioner's Comments: Jack Huls, DVG, representing the petitioner. This relates to a one-lot (1) subdivision that is before the Plan Commission. It is a four (4) acre parcel, this is a wooded parcel and would like to build a home. The ordinance states that the rear yard setback is twenty-five percent (25%) of the depth of the lot. In this case the lot depth is six hundred and fifteen ft. (615') which would result in a rear yard setback of one hundred and forty-seven ft. (147') from the rear property line. Would like to reduce that to a specific number of thirty ft. (30') instead of a ratio number. This would not be injurious to the Town by granting this, would not affect the adjacent property owners value and the parcel has access from 141<sup>st</sup> Place. Just from a site perspective feel restricting one hundred forty-seven ft. (147') of the rear of the property is not necessary. Along with some accessory building petitions, would like to place a larger accessory building on the property than allowed. Jeremy Kuiper, 13970 Orchard Dr., Cedar Lake. As it pertains to the accessory building it goes by sizes of lot for the structure. The cut off for the structure is two thousand sq. ft. (2,000 sq. ft.) for two (2) acres. Also a limit of a ten ft. (10') side wall. Is proposing a 50'x80' with a fourteen ft. (14') side wall

and a twenty-two ft. four inch (4”) overall height due to the pitch of the roof. Is appropriate for the lot size, gives opportunity for access off of 141<sup>st</sup> Place. Intention is to have one-lot (1). Would be one residence on that parcel.

- c) Remonstrators: Kelly Wynkoop, 9010 W. 141<sup>st</sup> Ave., concern with putting pole barn up first. How long will it take to build the house and the barn will sit by itself. Asked if ever walked back there and if will get a soil test. Concerned with the lot being mowed. Discussion on if she can build a pole barn and what size.

Marilyn Ectherling, 8905 W. 141<sup>st</sup> Ln, questions and concerns with coming off 141<sup>st</sup>.

Jeremy Kuiper stated if this variance would be granted, would have one (1) year to get the building permit and one (1) before the permit would expire. Does not plan to take longer than two (2) years to finish. No set time frame as to when it will be done, a lot of work to be done to the property before any construction.

- d) Building Department’s Comments: Michelle Bakker asked for clarification on the rear yard setback, if for the house or accessory structure. Tim Kubiak mentioned concern for the fourteen ft. (14’) sidewall. This could lend itself to a lot of other uses. Jeremy Kuiper stated he needs this height to store his camper.
- e) Board’s Discussion: Discussion ensued on rear yard setback. Jeff Bunge stated this building is two (2) times more than our ordinance. This is an R-1 piece of property.

A motion was made by Jerry Wilkening and seconded by John Kiepura to approve as presented with a fourteen ft. (14’) side wall height, primary structure built within two (2) years and to include the findings of fact.

Jerry Wilkening stated this approval will not be injurious to the public health, safety, morals and general welfare of the community.

The use and value of the area adjacent to the property will not be affected in a substantial or adverse manner.

The strict application of the terms of the zoning ordinance as amended from time to time will result in in practical difficulties of the use of this property.

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

**Public Comment:**

Richard Thiel Jr., would like to request being last on the agenda in June. Board discussed if old business can be last.

**Adjournment:** Time: 11:02 p.m.

**Press Session:** Board of Zoning Appeals Meeting – May 10, 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.*