



**TOWN OF CEDAR LAKE
BOARD OF ZONING APPEALS
PUBLIC MEETING MINUTES
June 14, 2018 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

Absent Jeremy Kuiper

Present Jeff Bunge

Present David Austgen, Town Attorney

Present Tim Kubiak, Director of Operations

Present Michelle Bakker, Building Administrator

Present Tammy Bilgri, Recording Secretary

Minutes:

A motion was made by Nick Recupito and seconded by Jerry Wilkening to approve the May 10, 2018 Public Meeting Minutes as presented.

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

Old Business:

1. Midwest PGM-Special Use Variance

Owner: Richard C. Thiel, Jr., 11363 W. 135th 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

Deferred to June 14, 2018 Public Meeting

- a) Attorney to Review Legals:
- b) Petitioner's Comments:
- c) Remonstrators:
- d) Building Department's Comments:
- e) Board's Discussion: Jeff Bunge stated we received correspondence today from Mr. Thiel asking for their application to be removed from the agenda.
- f) Recommendation to Town Council:

All in favor of removing from the agenda.

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

2. Reader-Developmental Variance

Owner/Petitioner: Andrea & Troy Reader, 14616 Lee St., Cedar Lake, IN 46303

Vicinity: 14616 Lee St., Cedar Lake, IN 46303

Legal Description: SOUTH SHORE SUB. L.69 **and** SOUTH SHORE SUB. N. 25 FT. L.68 **and** South Shore Sub Lot 67 & S.25ft of Lot 68

Tax Key Number(s): 45-15-35-305-030.000-043 **and** 45-15-35-305-031.000-043 **and** 45-15-35-305-033.000-043

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title VIII-Residential (R-2): Section 5: B. Attached Garages: Maximum attached garage size shall be eight hundred sixty-four (864) square feet.

This Developmental Variance is to allow the Petitioner to build an attached garage of 34'x40' (1,360 sq. ft.)

Deferred from May 10, 2018 Public Meeting

- a) Attorney to Review Legals: David Austgen stated this is a continued public hearing.
- b) Petitioner’s Comments: Troy Reader, 14616 Lee St., changed the wall height as requested and combined the lots.
- c) Remonstrators: None
- d) Building Department’s Comments: Tim Kubiak stated he lowered the ceiling down to thirteen ft. (13’) wall height, eliminated the sixteen ft. (16’) interior walls. Talked to Mr. Reader during the last month and those are the changes he made to the concerns from last month.
- e) Board’s Discussion: The Board discussed the combination of lots and if it is reversible. Nick Recupito is concerned with the garage being on the property line if he splits up the property. Discussion ensued on how he was going to finish the property. John Kiepura expressed concerns with it being too big for the neighborhood. Jerry Wilkening asked about lot coverage. Michelle Bakker stated he is allowed to have four thousand six hundred eighty-seven (4,687) and he has two thousand six hundred eighty (2,680). Jerry Wilkening suggested a contingency that the old garage needs to be framed in before occupancy.

A motion was made by Jerry Wilkening and seconded by Nick Recupito to approve as presented with contingency that old garage door be removed before occupancy based on the amendments of application and to include the findings of fact.

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

3. Bogathy-Special Use Variance

Owner: Cedar Lake Commercial, PO Box 657, St. John, IN 46373
Petitioner: Randal Bogathy, 8930 W. 125th Pl., Cedar Lake, IN 46303
Vicinity: 12615 Wicker Ave., 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 District

This Special Use Variance is to allow the Petitioner to use this property for a charitable haunted attraction and to have multiple businesses on a lot in a Community Business (B-2) Zoning District

Deferred from May 10, 2018 Public Meeting

- a) Attorney to Review Legals: This was properly continued.
- b) Petitioner’s Comments: Randal Bogathy, 8930 W. 125th Pl., since last meeting a site visit has taken place, the building has been examined. Discussion with Schilling on getting the parking lot repaired and striped. Dropped off paper work that stated there was sixty-four thousand ft. (64,000’) of parking space and that is not correct, went out to measure and there is a corner that cannot be used, it is closer to fifty thousand square feet (50,000 sq. ft.) This would be approximately one hundred forty (140) to one hundred fifty (150) parking spaces if you go by the rule of three hundred twenty-five square feet (325 sq. ft.) per space. Spoke with Chief Coulson and he has no problem with us hiring off duty Cedar Lake police officers for traffic control and security. Schilling Construction has also said they will check the parking lot lighting and if that lighting is not adequate they will provide lighting while we are in operation. The no left turn signs out of the parking lot, they have no problem putting those up. The inside of the structure will be determined when we get a list of attractions. All the decorated haunted house space will conform to the Indiana Fire Code. Groups will be limited to six (6) in the building at a time, with no more than six (6) per group. The staff that are not part of the attractions will be wearing staff t-shirts.
- c) Remonstrators: Paul Sturbing, Jr., 8377 Heron Lake Rd., St. John, IN, has worked with them for over a decade, this will be great for Cedar Lake. Kim Harrison, 14148 Butternut, Cedar Lake, IN. has been the volunteer coordinator for the last five (5) years. Great chance for service hours for the kids, donate the proceeds to different charities. Madeline Bogathy, 8930 W. 125th Pl., Cedar Lake, IN. Has worked with this charity and company since it started, from very first year was eleven (11) years old and has put her heart and soul into this. Everyone on this crew has

always put everything they can back into the community and this project. Will continue to make it a positive influence.

Theresa Michaels, 12039 N. St. Rd. 55, Thayer, IN. has worked with them for the past four (4) years. Good for services hours for the kids, very positive experience.

Daniel Howell, 7951 W. 91st Ave. Crown Point, IN. has volunteered at the Lake Hills Haunted House for about nine (9) years. Has always been very good for the younger generations keeping them busy. A great addition to the town.

David Nadolski, 5701 W. 175th Ave., Lowell, IN. has worked there for about four (4) years, got a lot of service hours through this program. This is a good community service choice and make a lot of good friends.

Name inaudible, 707 Dalton Ave., Romeoville, IL. Has done this for three (3) years. This will be a great addition to Cedar Lake.

- d) Building Department's Comments: Tim Kubiak stated he went out and meet with the Schillings at the property after the last meeting. Looked at the building. The basic structure is decent, expressed concerns about the exterior of building. They were going to look into and get something together with a parking plan. We received this packet about two days ago with these parking spaces, no idea how accurate. Unfortunately, when I see a drawing like this where someone has sketched on a bunch of spaces, the math works out. We're going to contact St. John Paving to come up with a plan for parking. A very large area can be made into parking, can be sealed and striped, good enough for parking. Biggest concern with outside of the building and the look. This building needs some help, it is structurally sound. Would this be something that would need to be approved on a yearly basis or for the long term? More concerned with long term. Not sure what the owners have planned for the future of this property. Mr. Bogathy was told this would be a year to year lease and this would probably only be a one-time thing.
- e) Board's Discussion: Nick Recupito asked about the Zombie Paintball, Mr. Bogathy stated that will be operated to give the guests something to do while they wait in line. Jeff Bunge stated this is a pretty extensive packet and he did have a chance to glance through it, John Kiepura stated he also read it. Jeff Bunge asked if they would fill two hundred (200) spots a night. Mr. Bogathy not at one time, parking will be staggered. Will sell one thousand (1,000) tickets a day. Discussion ensued on parking. John Kiepura expressed concerns with the interior construction of the rooms being changed. Will a permit be needed? Mr. Bogathy stated it is all temporary structures. Tim Kubiak stated no permit would be needed. Jerry Wilkening thinks this is a good use for the space, just has more questions than answers at this point. David Austgen stated this is a Special Use Variance and the information you have been provided is a significant improvement on the initial documentation. There are significant items that really need abetting at department head level. For example: traffic, access and egress. There is going to be a volume of traffic at a point and time when the events are occurring and we know we do not have traffic control signals on Route 41 in the vicinity of these properties. So I smell and see and feel that your public safety review of this would include necessary review by the Police Department and Police Chief. Fire: just taking the high pieces, they gave a lot of information all of which is relevant for approval or denial or the conduct of the business, they know their business. Fire protection and safety really needs to be considered. The Fire Chief or inspectors need to weigh in so that we know it is a steel span building or card board or whatever else happens, that we have our public safety folks weighing in so that these items are addressed and complete safety and protection of the folks that enter and participate is assured. Conditions of the site, the parking, the necessity of know about the parking, not wondering about arrangements with the ad joiners or the size of the parking spaces. There will be a lot of people there. A thousand (1,000) people will be going through this event venue on a Friday night, Saturday or Sunday, there will be a lot of traffic in a short amount of time. These are the things to clarify, you are entitled to do all of that and are responsible that the proposed use will be a safe and appropriate use for the area, and for those that will participate. I know Tim just said these packets just came in two (2) days ago, not sure if the Board had time to properly review. Need to pick the areas that need review analysis assessment or more information. This begs for a meeting of these folks with our building and planning people in advance of you all having to sit here and pull this apart like a sausage. Not to them, you guys know it, but you have to make the decisions up here. Tim Kubiak stated that is what we were under the impression would happen this last month. Mr. Bogathy stated he has met with the Fire Chief Wilkening and the Deputy Chief Mager. David Austgen stated that is not part of this record. The Board discussed needing an occupancy number. The other thing about this presentation, there is really kind of a business plan embedded into the site

circumstances and given the nature of the business and the circumstances of traffic and volume of people, it would seem appropriate that there be a developed list of conditions or requirements that you might deem reasonable to impose on the property and application. Right now we really don't have that, we have information but we don't have an outline of those things that would be necessary for your assessment. This is going to the Town Council, so you are doing the leg work for them. Jerry Wilkening suggested a deferral. Tim Kubiak asked for clarification of the use of the second floor. Mr. Bogathy stated this will only be used for the staff, no guest traffic. Jeff Bunge asked if we need to get together a list for them to give us. Tim Kubiak stated the biggest concern is getting in and out of the place safely and getting the parking plan together. Is there going to be one designated area to pull in and out. Need a flow able parking plan, this needs to be functional. The building isn't unsafe just unsightly. Mr. Bogathy stated we are on a time constraint, and thought more of this had been addressed by the landlord. Tim Kubiak anticipated a meeting with the Police Chief and Fire Chief to make sure everyone is on the same page.

f) Recommendation to Town Council:

A motion was made by Jerry Wilkening and seconded by John Kiepura to defer to the July 12, 2018 Public Meeting.

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

4. LaGaviota-Use Variance

Owner: Teresita & Armando Barajas, 10212 W. 117th Ave., Cedar Lake, IN 46303
Petitioner: La Gaviota Supermercado, 10728 W. 133rd Ave., Cedar Lake, IN 46303
Vicinity: 10728 W. 133rd Ave., Cedar Lake, IN 46303
Legal Description: Barjas Park Lot 1
Tax Key Number(s): 45-15-21-376-029.000-014

Request: Petitioner is requesting a Use Variance from Zoning Ordinance No. 496, Title XII-Neighborhood Business (B-1) Zoning District

This Use Variance is to allow the Petitioner to have outdoor cooking and dining.

Deferred from May 10, 2018 Public Meeting

- 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:

A motion was made by Jerry Wilkening and seconded by Nick Recupito to defer to the August 9, 2018 Public Meeting per the request of the petitioner.

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

New Business:

1. Ross-Developmental Variance

Owner/Petitioner: Briana Ross, 9119 W. 142nd Pl., Cedar Lake, IN 46303
Vicinity: 9119 W. 142nd Pl., Cedar Lake, IN 46303
Legal Description: OAKDALE SUB. ALL LOTS 8 THRU 15 INC. BL. 2 and PT. NW. FRAC'L S.34 T.34 R.9 2 A. 358.30 X 243.16 FT.
Tax Key Number(s): 45-15-34-130-008.000-014 and 45-15-34-176-002.000-014

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XX-Supplementary Zoning District Regulations: Section 20: Agricultural Uses: The raising, holding keeping or possessing of any livestock, poultry, fowls or other animals, whether raised, held, kept or possessed for personal or commercial uses and/or the constructing, erecting, altering, improving, remodeling or moving any accessory stable, building structure or enclosure of any type or kind associated with raising such livestock, poultry, fowls or other animals shall be permitted only upon those tracts of land consisting of eight (8) acres or more.

This Developmental Variance is to allow the Petitioner to have a small chicken coop with laying hens (no roosters), contained in pen on 2.69 acres in a Residential (R-2) Zoning District.

- a) Attorney to Review Legals: David Austgen stated the legals are in order and a public hearing may be conducted.
- b) Petitioner’s Comments: Briana Ross, 9119 W. 142nd Pl., to request to be able to keep a small number of back yard chickens. Egg laying hens only, no roosters. They will be contained at all times, no free range. Have nearly three (3) acres of property and have strategically chose a location in their yard that is thirty-five ft. (35’) from the neighbor’s horse, it is only close proximity to one (1) home in the area and we spoke to them and he had no issues with the chickens. Brought a copy of the survey with location of coop.
- c) Remonstrators: Jeff Bunge read a letter from Cheryl Porter, 9123 W. 142nd Pl., Cedar Lake, not in favor of granting the variance.
- d) Building Department’s Comments: Tim Kubiak stated went out to look at it and as you can see in the picture, there is a horse and barn right next to this. It was a very clean operation. A chicken is considered a farm animal, with the space and the property they have and the condition they have them in do not see an issue. The uniqueness of the three (3) acres they have is not in a subdivision. Could smell the horse was back there, did not notice the chickens. Would limit the number of chickens. Would consider this like a dog house.
- e) Board’s Discussion: David Austgen asked if they would consider this being a use for these property owners only. If the 2.69 acres is sold, then we don’t have alligators and alpacas. Let us make it specific to these folks. Do not see Tim counting chickens. Tim Kubiak stated wouldn’t have to count the chickens because she has a name plate for each one. John Kiepura stated a horse in the back yard is no criteria for chickens. Concerned with where they get rid of the waste, noise, smell the sanitary conditions. We have ordinances for specific reasons, definitely against raising chickens. Mrs. Ross stated they have a compost pile. A chicken without a rooster rarely makes noise, the birds in the yard are nosier. They only make a noise after the lay an egg. In terms of the manure, six (6) chickens produce the same amount of manure in a day as a medium sized dog. The coop is cleaned twice a week. Jerry Wilkening asked for clarification of the ordinance. Michelle Bakker stated you have to have eight (8) acres. Jeff Bunge asked how far away from the nearest neighbor. Mrs. Ross stated the closest neighbor is one hundred ninety feet (190’), this from the coop to the fence. Mrs. Ross brought pictures to show the site line from the neighbors. Tim Kubiak asked for clarification of where the compost pile is located. Mrs. Ross stated it is on the other end of the property, straight west of the coop. It is near the tree line, it is about fifty feet (50’) from the neighbor’s property. A compost pile smells sweet as it decomposes. John Kiepura does not believe chickens should be in a residential area.

A motion was made by Jerry Wilkening and seconded by Nick Recupito to approve as presented with a maximum of fourteen (14) chickens and for this property owner only and to include the findings of fact.

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

2. Poteete-Developmental Variance

Owner/Petitioner: Joseph A. Poteete, 15023 Ivy St., Cedar Lake, IN 46303
Vicinity: 15023 Ivy St., Cedar Lake, IN 46303
Legal Description: Lynnsway Unit 3 Lot 151
Tax Key Number(s): 45-19-04-230-009.000-057

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 ft. (6’) wood fence in the front yard.

- a) Attorney to Review Legals: David Austgen stated the legals are in order and the public hearing may be conducted.

- b) Petitioner's Comments: Joseph Poteete, 15023 Ivy St., Cedar Lake, IN. would like to put a six ft. (6') wood fence in what is considered a front yard. Other neighbors in the area have this already.
- c) Remonstrators: None
- d) Building Department's Comments: Tim Kubiak stated this is consistent with the neighborhood.
- e) Board's Discussion: None

A motion was made by Nick Recupito and seconded by John Kiepura to approve as presented and to include the findings of fact.

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

3. Kijewski-Developmental Variance

Owner/Petitioner: Michael & Evelyn Kijewski, 9827 W. 150th Ct., Cedar Lake, IN 46303
 Vicinity: 9827 W. 150th Ct., Cedar Lake, IN 46303
 Legal Description: Lynnsway Unit 3 Lot 140
 Tax Key Number(s): 45-19-04-230-013.000-057

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: Title XXIII-Accessory Regulations: Section 1: 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 have a six ft. (6') vinyl fence with an eighteen ft. (18') setback off Drummond St. and a zero ft. (0') setback off the south property line and a shed in the front yard.

- a) Attorney to Review Legals: David Austgen stated the legals are in order and the public hearing may be conducted.
- b) Petitioner's Comments: Michael & Evelyn Kijewski, 9827 W. 150th Ct., Cedar Lake, IN it is considered a front yard off of 151st and Drummond, would like to run the six ft. (6') fence in the same line as the neighbor. Would be twenty-three ft. (23') off the sidewalk instead of eighteen ft. (18') and then put a shed about six ft. (6') off the south side of the fence.
- c) Remonstrators: None
- d) Building Department's Comments: Tim Kubiak stated they actually have three (3) front yards. Mr. Kubiak stated need to be most concerned with Drummond Street. Very unique piece of property. Likes that it is twenty-three ft. (23') off of Drummond, very consistent with neighborhood.
- e) Board's Discussion: Discussion on neighboring properties having fences and clarification on setbacks.

A motion was made by John Kiepura and seconded by Jerry Wilkening to approve a six ft. (6') fence with a twenty-three ft. (23') setback and a shed two ft. (2') from the fence in a front yard and to include the findings of fact.

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

Public Comment: None

Adjournment: Time: 8:32 p.m.

Press Session: Board of Zoning Appeals Meeting – July 12, 2018 at 7:00pm

Nick Recupito

Jeff Bunge, Vice Chairman

Jerry Wilkening

Jeremy Kuiper, Chairman

John Kiepura

Attest: Tammy Bilgri, Recording Secretary