



**TOWN OF CEDAR LAKE
BOARD OF ZONING APPEALS
PUBLIC MEETING MINUTES
August 9, 2018 7:00 P.M.**

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

Pledge to Flag:

Roll Call:

Absent Nick Recupito
Present Jerry Wilkening
Present John Kiepura
Absent Jeremy Kuiper
Present Jeff Bunge

Absent 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 July 12, 2018 Public Meeting Minutes as presented.

Nick Recupito	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Absent	Yes	Yes	Yes	Absent	3-0

Old Business:

1. LaGaviota-Use Variance

Owner: Teresita & Armando Barajas, 10212 W. 117th Ave., Cedar Lake, IN 46303
Petitioner: LaGaviota 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

Deferred to August 9, 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 John Kiepura to remove this item from the agenda per the petitioner's request to withdraw.

Nick Recupito	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Absent	Yes	Yes	Yes	Absent	3-0

2. Carey-Developmental Variance

Owner/Petitioner: David & Debra Carey, Ryan Dykema, 7205 W. 145th Ave., Cedar Lake, IN 46303
Vicinity: 13430 Morse St., Cedar Lake, IN 46303
Legal Description: NW. S.26 T.34 R.9 3.304 Ac PT. LOT 2 and PT GOV. LOT 2 S.26 T.34 R.9 315.81X170X310X199.86 FT 1.328 AC M/L and Pt. Gov. Lot 2 NW.1/4 S.26 T.34 R.9 1.01Ac and WOODLAND SHORES ADD BLOCK 1 LOT 12 & PT OUTLOT A ADJ and WOODLAND SHORES ADD BLOCK 1 LOT 11 & PT OUTLOT A ADJ and WOODLAND SHORE ADD TO CEDAR LAKE L.10 BL.1 & THAT PT. OUTLOT 'A' ADJ. and WOODLAND SHORES ADD BLK 1 LOT 9 & PT OF OUTLOT "A" ADJ and WOODLAND SHORES ADD BLK 1 LOT 8 & PT OF OUTLOT "A" ADJ and WOODLAND SHORES ADD BLK 1 LOT 7 & PT OF OUTLOT "A" ADJ and WOODLAND SHORES ADD BLK 1 LOT 6 & PT OF OUTLOT "A" ADJ and WOODLAND SHORES ADD BLK 1 LOT 5 & PT

OF OUTLOT "A" ADJ **and** CEDAR POINT PARK ALL OF LOTS 158 & 159

Tax Key Number(s): 45-15-26-179-032.000-043 **and** 45-15-26-179-033.000-043 **and** 45-15-26-179-034.000-043 **and** 45-15-26-179-039.000-043 **and** 45-15-26-179-040.000-043 **and** 45-15-26-179-041.000-043 **and** 45-15-26-179-042.000-043 **and** 45-15-26-179-043.000-043 **and** 45-15-26-179-044.000-043 **and** 45-15-26-179-045.000-043 **and** 45-15-26-179-046.000-043 **and** 45-15-26-179-004.000-043

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title VII-Residential (R-1) Zoning and Title VIII-Residential (R-2) Zoning District: Section 4: A. Minimum lot area and width: A lot width of not less than ninety feet (90’); D. Rear Yard: there shall be a rear yard on not less than twenty-five percent (25%) of the depth of the lot

This Developmental Variance is to allow the Petitioner to change the rear setbacks from twenty-five percent (25%) of the lot depth to twenty-five ft. (25’) and lot width from ninety ft. (90’) wide to eighty-four ft. (84’) wide

- a) Attorney to Review Legals: Properly continued.
- b) Petitioner’s Comments: Jack Huls, DVG, representing the petitioner. This petition was deferred last month. Since then we have been before the Plan Commission and received primary plat approval for this 9-lot residential and 1-lot commercial subdivision. Also received a favorable recommendation from the Plan Commission to the Town Council for the zone changes requested, that was also passed. We are continuing this petition requesting a couple of developmental variances. Want to set a rear yard setback line instead of a percentage, this helps avoid other variances in the future and the second is for lot width.
- c) Remonstrators: None
- d) Building Department’s Comments: Tim Kubiak stated our new zoning ordinance does reduce the lots to eighty ft. (80’) instead of ninety (90). Does like the building line on the plat, instead of trying to figure out lot depth.
- e) Board’s Discussion: Jeff Bunge asked which lots these variances would pertain too. Jack Huls stated the Plat has not changed, if you want to ear mark it specifically, it would be lots 2,3,4,6,7,and 8 would be using the variance to different degrees. Jerry Wilkening asked for clarification of the right of way of lot 9. Must be a wrong number. This will not affect the motion. Jeff Bunge brought up previous discussion about the out lots of 158 and 159 for storm water. Mr. Huls stated those lots will be included in out lot A. All storm water was handled at the Plan Commission and by the Town Engineer. There is no site plan developed for lot 10 at this point. It would go before Plan Commission.

A motion was made by Jerry Wilkening and seconded by John Kiepura to approve the Developmental Variance as presented contingent legal review and to include the findings of fact.

Nick Recupito	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Absent	Yes	Yes	Yes	Absent	3-0

New Business:

1. Jackson-Use Variance

Owner: Pete Blagojevic, 13820 Morse St.,Cedar Lake, IN 46303

Petitioner: Michelle Jackson, 14422 Morse St., Crown Point, IN 46307

Vicinity: 14422 Morse St.,Cedar Lake, IN 46303

Legal Description: PT. GOV LOT 2 SE. NW. 103.98X238.71X102.41X238.71FT. S.35 T.34 R.9 .567AC.

Tax Key Number(s): 45-15-35-185-011.000-043

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 sell alcoholic beverages in a convenience store

- 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 John Kiepura and seconded by Jerry Wilkening to remove this item from the agenda per petitioner's request to withdraw.

Nick Recupito	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Absent	Yes	Yes	Yes	Absent	3-0

2. Dutko-Developmental Variance

Owner: Thomas Dutko, 14590 Magoun St., Cedar Lake, IN 46303
 Petitioner: Thomas Dutko, 14590 Magoun St., Cedar Lake, IN 46303
 Vicinity: 5913 Tahoe Pl., Cedar Lake, IN 46303
 Legal Description: Lakeside Unit 1 Block 1 Lot 20
 Tax Key Number(s): 45-15-25-126-012.000-043

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title VIII-Residential (R-2) Zoning District: Section 4;
 D. Rear Yard: there shall be a rear yard of not less than twenty-five percent (25%) of the depth of the lot

This Developmental Variance is to allow the Petitioner to build a covered porch with a twenty-one ft. (21') rear yard setback (Lakeside has an existing rear yard setback of thirty ft. (30')

- a) Attorney to Review Legals: None
- b) Petitioner's Comments: None
- c) Remonstrators: Robert Butta, 5517 W. 133rd Ave., Crown Point, IN. Fifteen (15) properties would be neighboring his property. Mr. Butta stated he has a nature preserve located at the back of the property with a 75 x 50 ft. pond that has been there since the 70's, regularly inhabited by deer, mallard ducks, and other animals drinking out of the pond. Since the drainage was installed at Lakeside, the pond has been decimated and the ground water has dropped. Also had a line of trees cut down inside the fence line last year. Was told this was to put the sewer in. Was not contacted about this and did not give approval. There is a conflict with the property line near the northeast corner, there are two (2) pins in the ground. One is the old pin and then a new pin placed by DVG in the middle of the road. There is an eighteen inch (18") difference. Asking for this to be clarified. Would like this looked at before fifteen different property owners put up fences into his property. In 2015 I spoke out against this subdivision and that builders should have to follow the Ordinance. Do not approve of this variance and submitted letter to the Board. Mr. Dutko should be familiar with the thirty ft. (30') setback. Need better plans to look at for this variance. The plan is missing details, there is an extra deck. Should not receive this after the fact, the house is already built. Believes the house is too big and coverage is over. Discussion ensued on the coverage of the lot. Wants this corrected and hopes he does not have to come here every month to monitor the builders. Concerns with how to correct this and with better plans turned into to Town. He is very upset with these discrepancies.
- d) Building Department's Comments: Michelle Bakker stated Mr. Dutko would like this item and item 3 to be deferred to next month. Tim Kubiak stated it was also discovered there may be an issue with lot coverage. Mr. Dutko had a family emergency and could not attend tonight. Tim Kubiak stated there was an eighteen inch (18") discrepancy behind Robins Nest and Lakeside. We will contact DVG, this is a unique circumstance. Tim Kubiak stated he approved the plans and missed the covered portion of the permit. The builder thought there was a twenty ft. (20') setback. Mr. Dutko will be coming in next month with a second variance for lot coverage.
- e) Board's Discussion: Discussion ensued on property lines and surveys. Jerry Wilkening stated nothing will be approved until this is solved. Lot coverage was also discussed and house plans.

A motion was made by Jerry Wilkening and seconded by John Kiepura to defer to the September 13, 2018 Public Meeting per the petitioner's request.

Nick Recupito	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Absent	Yes	Yes	Yes	Absent	3-0

3. Dutko-Developmental Variance

Owner: Thomas Dutko, 14590 Magoun St., Cedar Lake, IN 46303
Petitioner: Thomas Dutko, 14590 Magoun St., Cedar Lake, IN 46303
Vicinity: 13339 Victoria Ln., Cedar Lake, IN 46303
Legal Description: Lakeside Unit 1 BL.2 Lot 47
Tax Key Number(s): 45-15-25-128-009.000-043

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title VIII-Residential (R-2) Zoning District: Section 4; D. Rear Yard: there shall be a rear yard of not less than twenty-five percent (25%) of the depth of the lot

This Developmental Variance is to allow the Petitioner to build a covered porch with a twenty-one ft. (21') rear yard setback (Lakeside has an existing rear yard setback of thirty ft. (30')

- a) Attorney to Review Legals:
- b) Petitioner's Comments:
- c) Remonstrators:
- d) Building Department's Comments:
- e) Board's Discussion:
- f) Board's Decision:

A motion was made by Jerry Wilkening and seconded by John Kiepura to defer to the September 13, 2018 Public Meeting per the petitioner's request.

Nick Recupito	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Absent	Yes	Yes	Yes	Absent	3-0

4. Beller-Developmental Variance

Owner/Petitioner: Carmella Beller, 12844 Fairbanks St., Cedar Lake, IN 46303
Vicinity: 12844 Fairbanks St., Cedar Lake, IN 46303
Legal Description: HIGHGROVE 2ND ADD. ALL LOTS 1 TO 4 BL.13
Tax Key Number(s): 45-15-23-268-025.000-043

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

This Developmental Variance is to allow the Petitioner to have a six ft. (6') privacy fence in the front yard of a corner lot fifteen ft. (15') from the property line

- a) Attorney to Review Legals: None
- b) Petitioner's Comments: Carmella Beller, 12844 Fairbanks St., a clarification is we want it fifteen ft. (15') from the house, not the property line. Would like to fence in yard of new home on a corner lot. The Beller's stated there is a giant tree that would interfere with the fence.
- c) Remonstrators: None
- d) Building Department's Comments: Michelle Bakker stated technically with this variance you can build the fence fifteen point five (15.5) ft. from the house and fifteen (15) ft. from the property line. Tim Kubiak stated this property was torn down and a new house built. Mr. Kubiak stated that other variances in these older neighborhoods have be granted a twenty ft. (20') setback. This will maintain the vision of front yard off of 128th Ln. There is five or six ft. (5 or 6') from the property line. If you gave a twenty ft. (20') variance it would leave approximately twenty-five ft. (25') from the curb. Recommends ten ft. (10') from their house fence in the back yard and that allows for that twenty ft. (20') on their property and then the four to five ft. (4 to 5') to the back of the curb. Mr. Kubiak explained that their side yard is the neighbor's front yard and we have to take into consideration their line of sight. The closest that has been granted is twenty ft. (20') to stay consistent. On 128th Ln. most of the houses are set back, they are not up to the road way
- e) Board's Discussion: The Board asked for clarification of location of fence. Ms. Beller stated wants to run the fence past the easement and to the property line. The Board discussed keeping the fence at the building line. Concern with aesthetics of the street. Jeff Bunge stated we need to look at the uniqueness of the situation. John Kiepura does not see a hardship and recommends the twenty ft. (20') as Tim stated. Mr. Beller stated they wanted two (2) five ft. (5')

gates to have access to the back yard. Will have issues with adding a shed later on if only granted the ten ft. (10') due to drain location for underground pvc piping. Jerry Wilkening stated we need to keep consistency with these fences in the front yard. A four ft. (4') fence would change the numbers. Discussion ensued on other options and types of fence.

A motion was made by Jerry Wilkening and seconded by John Kiepura to approve a six ft. (6') privacy fence in a front yard of a corner lot with a twenty ft. (20') setback off of 128th Ln. contingent legal review and to include the findings of fact.

Nick Recupito	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Absent	Yes	Yes	Yes	Absent	3-0

5. Esparza-Berrinni-Developmental Variance

Owner: Amparo Esparza-Berrini, 8901 W. 142nd Pl., Cedar Lake, IN 46303
Petitioner: Amparo Esparza-Berrini, 8901 W. 142nd Pl., Cedar Lake, IN 46303
Vicinity: 8901 W. 142nd Pl., Cedar Lake, IN 46303
Legal Description: OAKDALE SUBDIV. LOTS 52, 53 & 54 BL.2
Tax Key Number(s): 45-15-34-204-002.000-014

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title VIII-Residential (R-2) Zoning District; Section 4; D. Rear Yard: there shall be a rear yard on not less than twenty-five percent (25%) of the depth of the lot

This Developmental Variance is to allow the Petitioner to build a deck three ft. (3') from the rear property line

- a) Attorney to Review Legals: None
- b) Petitioner's Comments: Amparo Esparza-Berrini, 8901 W. 142nd Pl., would like to put a bigger deck approximately 13' x 30'. There is a small deck currently there and the property slopes.
- c) Remonstrators: None
- d) Building Department's Comments: Tim Kubiak stated if she built a twelve ft. (12') deck she could stay six ft. (6') off the property line. This would be consistent with setbacks for an accessory structure. The height of the deck would probably only be twenty-four inches (24") off the ground.
- e) Board's Discussion: The Board discussed the setback and it would only be five ft. (5') off the line, not three (3). Discussion ensued on if she would consider a 12 x 30 deck to make it the six ft. (6') off the property line.

A motion was made by Jerry Wilkening and seconded by John Kiepura to approve the Developmental Variance to allow the petitioner to build a deck six ft. (6') from the rear property line, contingent legal review and to include the findings of fact.

Nick Recupito	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Absent	Yes	Yes	Yes	Absent	3-0

6. Lublow/Phillippe-Developmental Variance

Owner: James & Jennifer Lublow, 14137 Soper St., Cedar Lake, IN 46303
Petitioner: Phillippe Builders, 3500 Union Ave., Steger, IL 60475
Vicinity: 14137 Soper St., Cedar Lake, IN 46303
Legal Description: NOBLE OAKS PARK 2ND. ADD. L.11 BL.8
Tax Key Number(s): 45-15-34-209-019.000-014

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 ft. (30'); D. Rear Yard: there shall be a rear yard on not less than twenty-five percent (25%) of the depth of the lot; Section 5: A. No building shall be erected for residential purposes having minimum ground floor area of less than one thousand six hundred (1,600) square feet for a two (2) story house; 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 a two (2) story house with zero (0) living space on the ground floor with a sixteen hundred sq. ft. (1600 sq. ft.) attached garage; a front yard setback of fourteen ft. (14') and a rear yard setback of fourteen ft. (14')

- a) Attorney to Review Legals: None
- b) Petitioner’s Comments: John Kryda, Phillippe Builders, by the size of the lot and size of house, a three (3) to four (4) car garage underneath a six teen hundred sq. ft. (1,600 sq. ft.) living unit above. The family lives across the street, they built a house and now are looking to build the garage and living area for their kids. They have been here before for a different variance on the same property, but it expired.
- c) Remonstrators: None
- d) Building Department’s Comments: Michelle Bakker stated they are here again because the first variance expired. They have made a few changes. Tim Kubiak expressed concerns with the cantilever deck and the setback. If it is addressed on Soper St. that would become a side yard and would have plenty of room.
- e) Board’s Discussion: The Board discussed what was approved for the previous variance and compared it to this request.

A motion was made by Jerry Wilkening and seconded by John Kiepura to approve the Developmental Variance to allow the petitioner to build a two (2) story house with zero (0) living space on the ground floor with a sixteen hundred sq. ft. (1600 sq. ft.) attached garage; a front yard setback of fourteen ft. (14’), contingent legal review and to include the findings of fact.

Nick Recupito	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Absent	Yes	Yes	Yes	Absent	3-0

Public Comment:

Adjournment: Time: 8:38 p.m.

Press Session: Board of Zoning Appeals Meeting – September 13, 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.