



**TOWN OF CEDAR LAKE
BOARD OF ZONING APPEALS
PUBLIC MEETING
MINUTES
February 14, 2019 7:00 P.M.**

Call to Order (Time): 7:01 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 Nick Recupito and seconded by Jerry Wilkening to approve the January 10, 2019 Public Meeting Minutes as requested.

Nick Recupito	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Yes	Yes	n/a	Yes	Yes	4-0

Old Business:

1. Cedar Lake Ministries - Developmental Variance

Owner: Cedar Lake Ministries, 8816 W. 137th Ave., Cedar Lake, IN 46303
Petitioner: Sanusi Mutuwa, P.O. Box 665, Cedar Lake, IN 46303
Vicinity: 8816 W. 137th Ave., Cedar Lake, IN 46303
Legal Description: Pt. of NW.1/4 S.27 T.34 R.9 Ly'ng E. of RR 32.588Ac
Tax Key Number(s): 45-15-27-176-001.000-014

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XXI-Fence Regulations: Section 1: A. 1) No fence shall be located in the front yard; 2) No fence shall exceed six feet (6') in height

This Developmental Variance is to allow the Petitioner to have a nine ft. (9') privacy fence with a fifteen ft. (15') setback in a front yard

Deferred from December 13, 2018 Public Meeting
Deferred from January 10, 2019 Public Meeting

- a) Attorney to Review Legals: David Austgen stated this was a withdrawn petition.

*Jeremy Kuiper read into the record the correspondence submitted to withdraw the petition.-Letter Attached

- b) Petitioner's Comments:
- c) Remonstrators:
- d) Building Department's Comments:
- e) Board's Discussion:
- f) Board's Decision:

Motion: _____ 2nd: _____

Nick Recupito	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote

2. Healy (Rosati's) - Use Variance

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

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

This Use Variance is to allow the Petitioner to have four (4) tables and sixteen (16) chairs for outdoor dining and alcohol

Deferred from September 13, 2018 Public Meeting
Deferred from January 10, 2019 Public Meeting

- a) Attorney to Review Legals: David Austgen stated this was properly continued.
- b) Petitioner's Comments: Keith Powers, Manager Rosati's, 15829 Fairbanks, Lowell, IN 46356. Want four (4) tables outside with sixteen (16) chairs. The issue has been parking. We have worked out a five (5) year contract with Brian Kubal at the Food Pantry just up the hill from where we are located. Will put all employee parking up there. There are sixteen (16) spots currently at this location with the possibility of twenty-five (25). When the Food Pantry moves to its new space will also rent the building.
- c) Remonstrators: None
- d) Building Department's Comments: Tim Kubiak stated there is plenty of parking over there for the business. With this approval should be an attachment that if they no longer have this additional parking the Use Variance will be revoked. David Austgen stated they have made their deal to get the parking spaces, so your action if you send a recommendation to the Town Council would be the business could operate provided it has a minimum number of parking spaces and if those parking spaces are no longer appended to the property the Use Variance terminates. That will give us the chance to enforce it.

- e) Board's Discussion: John Kiepura stated he would like the parking off site to be for employees only. The ordinance states parking should be within three hundred ft. (300') of the building. Agrees with Tim if loose parking, use revoked. Discussion ensued on parking at the business. David Austgen stated would want to continue to encourage and steer you away from tying the approval to a legal contract with a third party. He has asked for a land use approval, variance of use and if he can meet the minimum number agreed upon amount, otherwise will be brought into rental agreements and contracts on who did what, it would be impossible for Tim to enforce. Tim Kubiak stated he thinks eight to ten spots (8-10) would be fair for them to continue the outdoor dining. The Board discussed occupancy numbers.

A motion was made by John Kiepura and seconded by Jerry Wilkening to send a favorable recommendation to the Town Council to have four (4) tables and sixteen (16) chairs for outdoor dining and alcohol contingent an additional ten (10) parking spaces be secured off-site for employee parking only or outdoor dining privileges will be revoked and to include the findings of fact.

Nick Recupito	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
Yes	Yes	Yes	No	Yes	4-1

New Business:

1. Siwinski - Use Variance

Owner: Frank Ponziano, 12021 W. 95th Pl., St. John, IN 46373
Petitioner: Joseph Siwinski, 19430 S. Wolf Rd., Mokena, IL 60448
Vicinity: 10800 W. 133rd Ave., Cedar Lake, IN 46303
Legal Description: Vanco's Add. Lots 1 & 2 Ex. S.15.0ft in R/W
Tax Key Number(s): 45-15-21-376-022.000-014

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 operate two business, MBLO Funding and Lincoln-Way Realty on a lot in a B-1 Zoning District

- a) Attorney to Review Legals: David Austgen stated the proof of publication has been timely made, no evidence of green cards. Petitioner presented them to Mr. Austgen
- b) Petitioner's Comments: Joe Siwinski, 20273 Schoolhouse Rd., Mokena, IL. The request is to use an existing building on 133rd to put Real Estate and Mortgage Company in. This building has been vacant for a while. Nothing would change, it is set up as three (3) separate units now, there is an apartment behind and set up as Unit A and B in the past. Hours of operation are typically 9:00 to 5:00 with limited weekend hours. Will redo current signs. Some days no customers will be present others three to four (3-4), most business is done off site. Mostly employees at the building. Approximately two to six (2-6) employees.
- c) Remonstrators: None
- d) Building Department's Comments: Tim Kubiak stated they are proposing to add some parking on the west side of the building where the current grassy area is. With the additional parking spaces and the businesses he is

proposing, this is a good use for the space. Glad to see it being used, it has been empty for a while. He suggested giving six months to add additional parking, weather permitting.

- e) Board's Discussion: Discussion ensued on residential use together with business use. David Austgen stated this is legal non-conforming. Jerry Wilkening asked if the additional parking would need to meet Town standards. Tim Kubiak answered yes. Jerry Wilkening expressed concerns with lighting.

A motion was made by Nick Recupito and seconded by Jerry Wilkening to send a favorable recommendation to the Town Council to operate two (2) businesses: a real estate office and mortgage lending office on a lot in a B-1 Zoning District contingent parking lot improvements completed within six (6) months and to include the findings of fact.

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

2. Walker - Developmental Variance

Owner/Petitioner: Jason Walker, 15169 North State Rd. 49, Wheatfield, IN 46392
Vicinity: 7619 Lake Shore Dr., Cedar Lake, IN 46303
Legal Description: PT. SW. NW. S.23 T.34 R.9 .054 A.
Tax Key Number(s): 45-15-23-303-010.000-043

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; **and** Title VIII-Residential (R-2) Zoning: Section 4: E. Building Coverage: Not more than twenty-five percent (25%) of the area of the lot may be covered by buildings/structures

This Developmental Variance is to allow the Petitioner to have an eleven ft. x twelve ft. (11' x 12') shed one ft. (1') from the rear property line, eight ft. (8') from the house with a lot coverage over twenty-five percent (25%)

- a) Attorney to Review Legals: David Austgen stated the public hearing notices are in order, will need to verify green cards.
- b) Petitioner's Comments: Jason Walker, 15169 North State Rd. 49, Wheatfield, IN. Trying to get a variance for a shed permit. Lot is only forty-seven ft. x fifty-six (47x56) so would like the shed one foot from property line.
- c) Remonstrators: Jeremy Kuiper read a letter into the record. – letter attached
- d) Building Department's Comments: Tim Kubiak stated he has already started to put up the shed and believes the variance should read east side yard. Without a survey and you look where he has it in reference to the fence, the overhang on the shed. Mr. Walker stated the fence is actually bowed in at the end. They actually took the fence down to put the sea wall in. Tim Kubiak stated if you look at the location of the fence in reference to the survey marker, it is actually six to eight inches (6-8") to the west. It looks like the side of the shed is lined up with the survey marker and the overhang is over the property line. He is very limited on space for his yard, the fact for the overhang of the shed is hard to determine the complaint being over the

property without a survey. Mr. Kubiak went over requirements for a shed. Understand not wanting to block the lake, but this is really close to the neighbor's property. He did pour a concrete floor and block wall around the shed.

- e) Board's Discussion: The Board asked if Mr. Walker has a survey and he stated he does not. David Austgen asked how we found out about this. Tim Kubiak stated a complaint was called in. Mr. Walker stated originally there was a shed up along the back side of the house. There was a seven by eight foot (7x8) shed. The contractor doing my sea wall took it down and was supposed to replace it, they told me they pulled the permits. The Board discussed possible locations to move the shed to make it more compliant and concerns with lot coverage. Tim Kubiak stated he does have a hardship with the small piece of property and no garage. We have the setback rules so you can maintain and stay on your property. Mr. Walker stated he originally had a sea wall company put the wall in. They poured the concrete slab after the tore the other shed down, then decided not to finish my job. The Board asked who the contractor was and when the contract started. Mr. Walker answered Lake Front Maintenance and the contract started in August of 2016, they started it three (3) months later without permits from DNR. In September of 2018 they started to finish the wall. They told the petitioner they pulled the permits for the shed. The Board agrees this is a difficult situation, but would like to see it more compliant. David Austgen suggested that the Board encourage Mr. Walker to defer the matter and put the pieces together with a rehabilitation of what he was left with by his contractor and come back here next month and hopefully have a survey. This was not a mess he made. The neighbor had their property surveyed and Tim Kubiak suggested using the same surveyor. Our rules state you need a survey to build a shed. Discussion ensued on surveys and the rules. Mr. Walker stated he had issues with the contractor and the sea wall as well.

A motion was made by Jerry Wilkening and seconded by John Kieपुरa to defer to the March 14, 2019 Public Meeting per the petitioners request. 5-0

3. Kubiak – Special Use Variance

Owner: Kubiak Development, 9080 W. 129th Pl., Cedar Lake, IN 46303
Petitioner: Tim Kubiak, 9080 W. 129th Pl., Cedar Lake, IN 46303
Vicinity: 13135 Lake Shore Drive, Cedar Lake, IN 46303
Legal Description: Meyer Manor 2nd Add lots 8,9 & 10 Bl. 6
Tax Key Number(s): 45-15-22-451-018.000-014

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

This Special Use Variance is to allow the Petitioner to operate a General Contractor's Office with indoor storage only for a construction business

- a) Attorney to Review Legals: David Austgen stated the legals are in order and a public hearing may be conducted.
b) Petitioner's Comments: Tim Kubiak, 9080 W. 129th Pl., Cedar Lake. Wants to keep his stuff in the building as storage, nothing outside. Would like to start fixing the building up this year. There was a well company in the building previously for twenty (20) years.

- c) Remonstrators: None
- d) Building Department's Comments: None
- e) Board's Discussion: None

A motion was made by Jerry Wilkening and seconded by John Kiepura to send a favorable recommendation to the Town Council for Kubiak Development to operate a General Contractor's Office with indoor storage only for a construction business and to include the findings of fact.

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

Public Comment:

Adjournment: Time: 8:18 p.m.

Press Session: Board of Zoning Appeals Meeting – March 14, 2019 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.