



**TOWN OF CEDAR LAKE  
BOARD OF ZONING APPEALS  
PUBLIC MEETING MINUTES  
August 8, 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 accept the July 11, 2019 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. Cal Homes/Lucas Cotton – Special Use Variance**

Owner: Charles & Deidra Curry, 6030 S. 085 W, Wolcottville, IN 46795

Petitioner: Cal Homes/Lucas Cotton, 861 N. Madison, Crown Point, IN 46307

Vicinity: 13640 SE Morse St., Cedar Lake, IN 46303

Legal Description: E.140.4FT OF THE 158.8FT. LY'G BTWN ELIZABETH ST. & IDA ST. IN THE W.1/2 S.26 T.34 R.9 .511AC.

Tax Key Number(s): 45-15-26-185-032.000-043

Request: Petitioner is requesting a Special Use Variance from Zoning Ordinance No. 496, Title XII: Neighborhood Business (B1) Zoning District

***This Special Use Variance is to allow the Petitioner to run a construction office with outdoor storage of construction trailers and company vehicles***

**Deferred from July 11, 2019**

- a) Petitioner's Comments:
- b) Building Department's Comments:
- c) Board's Discussion:
- d) Recommendation to Town Council:

Jeremy Kuiper stated we do have correspondence from the petitioner, stating thank you for your help regarding the variance at 13640 Morse. After meeting last week, we will not be pursuing the purchase of the property after all. Signed Stephanie Tomich.

Nick Recupito	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote

**New Business:**

**1. 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 three ft. (3') 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 it appears the certified list of adjacent property owners is in evidence. One green card return, no white mailings. The public hearing in The Post Tribune is timely made. The legal ad or notice of the public hearing in The Northwest Indiana Times was not timely made. Would like to comment on this before we proceed. So as you just heard the notices have to be verified to the adjoining owners, there were only four (4), one (1) green card, so anything you do would be subject to receipt of the green card notices from those joiners. However and moreover, The Post Tribune Notice of Public Hearing was timely made, it was requested to be published July 25 for a July 30 publication date and the newspaper published. The same request was made of the NWI Times on July 25, but the Times did not publish on July 30, they published on July 31. That is not consistent with the requirements of your Ordinance and Rules of Procedure. That is nine (9) days not ten (10) days. Let me make a record about this and my recommendation to you for consideration this evening. Because the NWI Times did not publish as requested timely, officially or legally this public hearing would not be properly before you. All the other notices however have been made, as it appears from the record and I have reviewed with the staff the documentation that requested the publication to the NWI Times. I have seen the emails, I have seen the communications. It just did not get published when requested in that paper according to the schedule the paper puts out. I can tell you professionally just today I dealt with a public hearing notice myself in a client manner and you have to stay on top of them and if you don't sometimes they don't publish the way you want them to and ask them too. So verifying that everything else has been done and suggesting to you that nine (9) days isn't ten (10) days hence it isn't completely legal, I can also tell you that irregularities may be waived and a one (1) day in one (1) of the forms of notice methods of notice to the joiners and interested persons who are interested in the proceeding does not seem to be a very major item. I am aware from my research and review of this, the staff was simply trying to help petitioners and hence did not submit till the last second the request for Notice of Public Hearing and that was on July 25, waiting for data from applicants. Those folks here regular basis are assisting our citizens in these applications trying to get them to you, so they can have their opportunity like tonight these folks have here. I call that and I deem that to be substantial compliance. Since all other requirements have been met, one (1) day only has been out of line with legal requirements. It is my recommendation that you deem this noncompliance as irregular yet substantial notice has been given conformance with your ordinance and rules of procedure, that you consider a motion to waive the irregularity and permit the public hearing to be conducted. Now with that being said, is the petitioner here for this. Sir did you hear what I had to say? Do you any objection to a waiver of the irregularity by this Board to hear you tonight? The

petitioner stated No. Mr. Austgen then asked any fears for concerns that it may impact you adversely. The petitioner stated No not at all. Mr. Austgen stated Mr. Chairman my recommendation is based upon the record I made, the information that is in my file and in your staffs file of these proceedings that you consider a motion to waive the irregularity and allow the public hearing to be conducted as the irregularity has been waived and public hearing notice has been given, based on that record.

Jeremy Kuiper stated so the advice of the Counsel is before we proceed with this item is to waive the irregularity of the notices with substantial notice already being given. David Austgen stated please note also that the petitioner has no objection, has been notified in this proceeding and has no objection. Jeremy Kuiper asked the petitioner to state his name and address for the record. Jason Walker, 7619 Lake Shore Drive, Cedar Lake, IN 46303. Jeremy Kuiper asked if there were any questions or comments. There were none. David Austgen asked the Chairman to request the recording secretary to put this record verbatim in the minutes. Mr. Kuiper stated please do as such. Tammy Bilgri acknowledged.

Jeremy Kuiper restated the variance request. David Austgen stated please remember we have only one (1) green card for notice to adjointer and we need the mailing or green card to complete this. You can proceed, with this contingency.

A motion was made by Nick Recupito and seconded by John Kiepura to waive the irregularities and permit this case to be heard tonight.

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

- b) Petitioner's Comments: Jason Walker stated he would like to get a variance for his shed. Have a very small lot, the shed will be directly behind the house, directly off the back porch and even with the house.
- c) Remonstrators: None
- d) Building Department's Comments: Michelle Bakker stated we did go out and inspect this. It was moved by him to be three ft. (3') and in line with house instead of the one ft. (1') that was before and that is why it was considered a major change. We do request if the variance is approved he will need to obtain a survey to get his building permit.
- e) Board's Discussion: Jeremy Kuiper stated as you will remember we had this a while back and there were some hardships with the contractor. It does sound like he has gotten it to where the house is off the property line and that is why he is back. Jerry Wilkening stated he thought one of the previous requests was for the petitioner to get a survey. We discussed the alignment of the house and getting a survey. Mr. Walker stated that was on the request for one ft. (1'). Discussion ensued on how long ago the petitioner was before the Board. John Kiepura asked if the concrete slab was moved. Mr. Walker stated yes. Nick Recupito asked when the survey is done and submitted to the Building Department and this shed isn't three ft. (3') from the property line is he going to come back to the Board. Michelle Bakker stated the permit would not be approved. Nick Recupito expressed concern with not having the survey and how they would know if it was encroaching on the neighbor's property. The Board questioned the drawing attached to the application stating shed is not lined up with the house. Nick Recupito asked for clarification based off the minutes, he was requesting one ft. (1') off the property line and we requested a survey. Then somewhere between then and now the plans got changed and he no longer needs a survey now. Jeremy Kuiper stated he actually moved the pad further than the one ft. (1'), the survey request was for the last item and this needs to be treated as a new request. So our request for a survey before does not necessarily translate, except the Building Department had requested. Nick Recupito stated he would still like to see a survey. Jerry Wilkening stated these type of tight places, we always see a survey for these things. I get it is in the same footprint of the house, but this is not accurate enough. The Board stated they would like to see a survey before making any decisions. The Petitioner requested a deferral at the Board's suggestion. Jeff Bunge

question the way it was advertised, it states the variance is for three ft. (3') from rear property line and should be from side property line. David Austgen stated looks like there was an error and if that happened it would need to be reapplied for. Jeremy Kuiper asked if we can proceed on this. David Austgen stated no, he has asked for a deferral and come in and visit with staff to get the right application. Jeremy Kuiper stated per our counsel, granted a deferral we would like to see a survey and we will need some legal wording figured out before you see us. David Austgen suggested in consistent with dialogue at staff and Town Council level that the BZA direct that this not be on the agenda again until or unless all documentation required is presented and the application is complete. It can be on update items, but not a business item. Jeremy Kuiper stated that normally when you are granted a deferral it would be under Old Business, until you have the proper advertisement and what you need, we will put you on the agenda once you have it.

A motion was made by Jerry Wilkening and seconded by Jeff Bunge to defer per the request of the Petitioner.

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

## 2. Olbrot- Developmental Variance

Owner: Denise Ambroz, 2825 Edgewood Dr., Dyer, IN 46311  
 Petitioner: Tony Olbrot, 28425 S. 86<sup>th</sup> Ave., Peotone, IL 60468  
 Vicinity: 13565 Muir Ave., Cedar Lake, IN 46303  
 Legal Description: Muir Woods Lot 1  
 Tax Key Number(s): 45-15-29-277-017.000-014

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title VIII-Residential (R-2) Zoning District; Section 5: Building Size: B. Attached Garages: Attached garages on all new home permits shall have a 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 with a size of nine hundred and seventy-two sq. ft. (972')***

- a) Attorney to Review Legals: David Austgen stated the legals are in order, but for the same issue of irregularity as I recorded on the previous petition, would ask your consideration of direction to the recording secretary that those comments be verbatim inserted into the review comments for legals on this petition. Denise Ambroz, 2825 Edgewood Dr., Dyer, IN 46311. David Austgen asked the petitioner if she had an objection to this matter proceeding. Ms. Ambroz stated no.

The public hearing in The Post Tribune is timely made. The legal ad or notice of the public hearing in The Northwest Indiana Times was not timely made. Would like to comment on this before we proceed. However and moreover, The Post Tribune Notice of Public Hearing was timely made, it was requested to be published July 25 for a July 30 publication date and the newspaper published. The same request was made of the NWI Times on July 25, but the Times did not publish on July 30, they published on July 31. That is not consistent with the requirements of your Ordinance and Rules of Procedure. That is nine (9) days not ten (10) days. Let me make a record about this and my recommendation to you for consideration this evening. Because the NWI Times did not publish as requested timely, officially or legally this public hearing would not be properly before you. All the other notices however have been made, as it appears from the record and I have reviewed with the staff the documentation that requested the publication to the NWI Times. I have seen the emails, I have seen the communications. It just did not get published when requested in that paper according to the schedule the paper puts out. I can tell you

professionally just today I dealt with a public hearing notice myself in a client manner and you have to stay on top of them and if you don't sometimes they don't publish the way you want them to and ask them too. So verifying that everything else has been done and suggesting to you that nine (9) days isn't ten (10) days hence it isn't completely legal, I can also tell you that irregularities may be waived and a one (1) day in one (1) of the forms of notice methods of notice to the adjoiners and interested persons who are interested in the proceeding does not seem to be a very major item. I am aware from my research and review of this, the staff was simply trying to help petitioners and hence did not submit till the last second the request for Notice of Public Hearing and that was on July 25, waiting for data from applicants. Those folks here regular basis are assisting our citizens in these applications trying to get them to you, so they can have their opportunity like tonight these folks have here. I call that and I deem that to be substantial compliance. Since all other requirements have been met, one (1) day only has been out of line with legal requirements. It is my recommendation that you deem this noncompliance as irregular yet substantial notice has been given conformance with your ordinance and rules of procedure, that you consider a motion to waive the irregularity and permit the public hearing to be conducted.

A motion was made by Jerry Wilkening and seconded by John Kiepura to waive the irregularities and permit this case to be heard tonight.

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

- b) Petitioner's Comments: Denise Ambroz is requesting a Developmental Variance for an attached garage with a size of nine hundred and seventy-two sq. ft. (972').
- c) Remonstrators: None
- d) Building Department's Comments: Michelle Bakker stated no issue with this. This is in the Muir Woods subdivision, and similar to other properties.
- e) Board's Discussion: Jeff Bunge asked if this is a three (3) car garage. Jeremy Kuiper asked if this was standard size for a three (3) car garage. Discussion ensued on these questions.

A motion was made by John Kiepura and seconded by Jerry Wilkening to approve the Developmental Variance to allow the Petitioner to build an attached garage with a size of nine hundred and seventy-two sq. ft. (972') as presented and to include the findings of fact: will not be injurious to the public health, safety and morals or general welfare of the community. The use and value of the area adjacent to the property included in the variances will not be affected in substantially adverse manner. The strict application of terms of the zoning ordinance as amended from time to time will result in particular difficulties in the use of the property.

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

### 3. Schilling Development - Developmental Variance

Owner: Beacon Pointe of Cedar Lake, LLC, PO Box 677, St. John, IN 46373  
 Petitioner: Schilling Development, PO Box 677, St. John, IN 46373  
 Vicinity: 13800 Parrish Ave., Cedar Lake, IN 46303  
 Legal Description: Pt. NE.1/4 SE.1/4 S.29 T.34 R.9 16.69Ac  
 Tax Key Number(s): 45-15-28-426-009.000-014

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title VIII-Residential (R-2) Zoning District: Section 4: A. A lot area of not less than ten thousand square feet (10,000-100'x100'), and a lot width of not less than ninety feet (90') at the building line shall be provided for every building or other structure erected or used for any use permitted in this district; **and** D. Rear Yard: There shall be a rear yard on not less than twenty-five percent (25%) of the depth of the lot; **and** 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 change rear setbacks from twenty-five percent (25%) of lot depth to twenty ft. (20'); lot width from ninety ft. (90') wide to eighty ft. (80') and lot coverage from twenty-five percent (25%) max to thirty-five percent (35%) max***

- a) Attorney to Review Legals: David Austgen stated the circumstance with legals are the same as the previous petitions. David Austgen asked the petitioner if they had any objections to proceeding. Jack Slager, Schilling Development, 8900 Wicker Ave., St. John, IN stated no objection.

The public hearing in The Post Tribune is timely made. The legal ad or notice of the public hearing in The Northwest Indiana Times was not timely made. Would like to comment on this before we proceed. However and moreover, The Post Tribune Notice of Public Hearing was timely made, it was requested to be published July 25 for a July 30 publication date and the newspaper published. The same request was made of the NWI Times on July 25, but the Times did not publish on July 30, they published on July 31. That is not consistent with the requirements of your Ordinance and Rules of Procedure. That is nine (9) days not ten (10) days. Let me make a record about this and my recommendation to you for consideration this evening. Because the NWI Times did not publish as requested timely, officially or legally this public hearing would not be properly before you. All the other notices however have been made, as it appears from the record and I have reviewed with the staff the documentation that requested the publication to the NWI Times. I have seen the emails, I have seen the communications. It just did not get published when requested in that paper according to the schedule the paper puts out. I can tell you professionally just today I dealt with a public hearing notice myself in a client manner and you have to stay on top of them and if you don't sometimes they don't publish the way you want them to and ask them too. So verifying that everything else has been done and suggesting to you that nine (9) days isn't ten (10) days hence it isn't completely legal, I can also tell you that irregularities may be waived and a one (1) day in one (1) of the forms of notice methods of notice to the adjoiners and interested persons who are interested in the proceeding does not seem to be a very major item. I am aware from my research and review of this, the staff was simply trying to help petitioners and hence did not submit till the last second the request for Notice of Public Hearing and that was on July 25, waiting for data from applicants. Those folks here regular basis are assisting our citizens in these applications trying to get them to you, so they can have their opportunity like tonight these folks have here. I call that and I deem that to be substantial compliance. Since all other requirements have been met, one (1) day only has been out of line with legal requirements. It is my recommendation that you deem this noncompliance as irregular yet substantial notice has been given conformance with your ordinance and rules of procedure, that you consider a motion to waive the irregularity and permit the public hearing to be conducted.

A motion was made by Nick Recupito and seconded by John Kiepura to waive the irregularities and permit this case to be heard tonight.

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

David Austgen stated before we go into the petitioner's item, a couple questions might be in order given information that the Plan Commission received last night. This is the first time I have seen the variance application file. This is on the application itself, not on our recitation of it for the agenda or any other document, but noting that the variance application is by petitioner Schilling Development with the owner information being Beacon Pointe LLC signatures bearing Jack's as a representative of both. We received a report last night in our meeting that there were two (2) owners, two applicants for the

subdivision plat, wondering legally where Region Holdings LLC from Dyer, IN. Before we begin.

- b) Petitioner's Comments: Jack Slager stated item number three (3) on the agenda is Beacon Pointe and item number four (4) is Region Holdings. We are separate line items per Michelle Bakker's request. Have some additional drawings to clarify exactly what we are doing. Representing Beacon Pointe the portion talking about tonight is being called Phase 5, there will be twenty-seven (27) single family lots and this will be the first portion of Beacon Pointe crossing Parrish Avenue. Requesting a variance for an eighty ft. (80') lot width; twenty ft. (20') lot rear yard setback, have worked with the Building Department in the past that allows us to put a line on the plat that says this is the rear yard building line. Also the twenty-five percent (25%) lot coverage that would allow for pool or shed and other things that would not have to come before you for variances.
- c) Remonstrators: Joyce Russell, 9628 Eagle Crest Court, Cedar Lake. Is confused by the numbers. Mr. Slager explained the dimensions to her. Mostly concerned with Outlot and why isn't there an equal berm along the development. When first objected did not know how big the lots were, maybe objection is not as strong as thought. Mr. Slager stated that berm will extend down the back of the lots.
- d) Building Department's Comments: Michelle Bakker stated there are two (2) separate parcels and there were three (3) separate owners. So in order to make this legal and as easy as possible thought it was best to divide them into two (2) separate variances so the owner was correct on each one. At twenty five percent (25%) the rear yard requirement would be thirty-three point seven five ft. Is this subdivision going to allow pools or sheds. Mr. Slager stated typically they do allow these items, but have not finalized the restrictive covenants. Michelle Bakker stated she would prefer the rear yard to be more. Discussion ensued on the rear yard setback.
- e) Board's Discussion: Jeremy Kuiper stated we did not have this same request for Phase 1, so what is different. Jack Slager stated that everything on the east side of Parrish Avenue was developed as a PUD. There are cottage homes and duplexes; this is the first portion that will be single family with multiple builders. Will still meet the minimum lot size. David Austgen asked if you left these at ninety ft. (90') frontage how many lots do you lose. Jack Slager stated three (3). Nick Recupito asked for some clarification as to why these are needed. Mr. Slager stated the eighty ft. (80') lot is the typical lot in Lakeside, and all of our subdivisions. The old ordinance used to be eighty (80) and now it is ninety (90), the builders are used to working with an eighty (80) lot, also the cost goes up. The other items are things we have worked out with the Building Department to try to cut down on variances for pools and sheds. This is similar to Lakeside. Not opposed to the rear yard being made twenty-five (25) instead of twenty (20). Jerry Wilkening expressed concerns with the lot coverage. David Austgen asked what is peculiar to this parcel? Mr. Slager stated there is nothing unusual about it. Jeff Bunge asked what some of the older subdivision lot sizes. The lot sizes vary from seventy-five to ninety (75 to 90) in width. John Kiepura asked for clarification of the lot coverage and if that would be covered by just the house. Mr. Slager stated most of the home coverage would be in the twenty to twenty-five percent (20 to 25%) range, this would leave some room for a shed or pool. Discussion ensued about the berm and the location of it. Jeff Bunge asked for the use of Outlot A. Mr. Slager stated drainage. On Outlot B there is currently a barn, would like to try to save this. Jerry Wilkening asked how wide the lots are in Beacon Pointe right now. Mr. Slager stated the cottage home lots are fifty-six (56) on the cottage homes and ninety (90) on the duplexes. Jerry Wilkening stated he does not see a need for any of this and there is no hardship over three (3) lots. Mr. Wilkening stated these petitioners do fantastic stuff, bring great pictures and plans. Jeremy Kuiper asked John Kiepura for any insight from the Plan Commission meeting. John Kiepura stated at the Plan Commission meeting he did not see any objections, personally does not see anything wrong with the lot size. Nick Recupito stated he has not heard anything to approve this besides the financial side. Jeff Bunge agrees with Nick Recupito and does not see any hardship. Multiple discussions ensued. Jack Huls stated that exactly a year ago they stood before the Plan Commission and asked how to proceed with this subdivision and we were forth coming with the requests we were going to be making and specifically asked how to proceed and

were told to proceed with straight zoning and variances versus a PUD. We lost a year in the development process because of specific direction we asked for and were given and now there seems there is a different decision is being made. It was clear on the information presented what the request was going to be. Jack Slager stated the rear yard setback and lot coverage has no effect on him. He can work with what is there. David Austgen stated there is an impact on the Town, this Board and the Building Department if those other two (2) variances are not addressed. The number of variances will increase because of the circumstances of the lot. Michelle Bakker stated we did request a specific number to be on the plat for the rear yard, that is the only reason it was mentioned in this variance because it was a request. The twenty-five percent (25%) was mentioned because of all the covered patios and sheds in Lakeside. John Kiepura stated they were at the Plan Commission a year ago and discussed the eighty ft. (80') lots and twenty-five to thirty-five percent (25-35%) coverage, did discuss to add an exact footage, but did discuss that felt it would be better to have an exact footage so would have an exact property line to run through the subdivision that would be definable for everybody and that property line and setback line needs to be on the drawing when approved. That was discussed, but nothing decided. John Kiepura has no problem with lot size. Jerry Wilkening is concerned with lot coverage.

A motion was made by Nick Recupito and seconded by Jeff Bunge to deny the Developmental Variance as presented, does not believe there is a hardship and does not believe that the strict application of the terms of the zoning ordinance as amended from time to time will result in practical difficulties in the use of the property. – Motion was withdrawn.

John Kiepura stated the Plan Commission was pretty much in line with what they are requesting now. The reason Nick gave was he didn't see a hardship financially for shrinking the property, well per our request they went straight lots as opposed to a PUD. If they were greedy they would of pushed for a PUD they could of put three (3) times the homes in there. As far as financial consideration here when they put a PUD in they shrink the lots and cram the houses in and make a lot more money than what they are doing here. I see this developer trying to comply with what this Town's Plan Commission asked them to do or try to do. Jeff Bunge stated the problem with that is other members here on the Board that are not privy to what the Plan Commission does and negotiates with these Developers. We are outside the loop of which direction you go and the direction I see as a pertinent one as far as looking at the density and the master plan of the whole Town. If the plan of the Town is to have one hundred (100) ft. lots then that is our responsibility to make sure that happens. David Austgen stated what John was talking about a method or plan of approach to the development of this property. Two (2) paths could have been taken, there were no guarantees in those paths. They could of brought a PUD in here and decided to bring a subdivision in, our ordinances say what they say. You are the judges here, as Jeff just indicated you are the gate keepers in that sense for the ordinances, comprehensive plan and the plans of development in this community. They know that, these guys are veterans, this is not the first time they have done this. They knew they were bringing in a plan to have discussion with you, that is smart. Try to find a path to make it work the best, does not mean it is guaranteed. John Kiepura stated he felt it was his responsibility to bring this information forward that was discussed at the Plan Commission. Jeremy Kuiper stated the Plan Commission is in place to Plan Developments. David Austgen stated they have exclusive jurisdiction over subdivisions. Specifically under seven hundred (700) series of Indiana Code. They do not deal with Zoning unless it is a PUD and there is a development plan. Everybody has different functions. Jack Slager stated there is a reason why we haven't developed ninety ft. (90) lots in Cedar Lake before and I don't know that anyone has, it may not be financially profitable at this point at your mercy. Jeremy Kuiper stated we have a Plan Commission to guide developments as what the Plan Commission sees being in the Town's master plan and best interest. Just as the Town Council acts on items for the same reason, having a hard time having another Town board and commission whose job it is to guide these developments in a manner in which fits within our Town developments, master plan and to the counselors point, they don't sit here, but from what am learning from Mr. Kiepura, I think it holds weight if our Plan Commission made up of people such as us are guiding and seeing this and having spent much more time then we get, I think it does matter what the Plan Commission said. Jerry Wilkening asked if the petitioner can ask for a deferral. Mr. Austgen stated yes. Jerry Wilkening wants to see thirty-five percent (35%) on those lots, wants to see the numbers and

sizes. Jack Slager requested a deferral so they can clarify some of the questions. Nick Recupito withdrew his motion and Jeff Bunge withdrew his second.

A motion was made by Jeff Bunge and seconded by John Kiepura to defer to the September meeting per the request of the Petitioner.

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

#### 4. Schilling Development - Developmental Variance

Owner: Region Holdings, Inc. 425 Joliet St., Ste. 425, Dyer, IN 46311  
 Petitioner: Schilling Development, PO Box 677, St. John, IN 46373  
 Vicinity: 13830 Parrish Ave., Cedar Lake, IN 46303  
 Legal Description: Pt. NE.1/4 SE.1/4 S.29 T.34 R.9 18.31Ac  
 Tax Key Number(s): 45-15-28-426-006.000-014

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title VIII-Residential (R-2) Zoning District: Section 4: A. A lot area of not less than ten thousand square feet (10,000-100'x100'), and a lot width of not less than ninety feet (90') at the building line shall be provided for every building or other structure erected or used for any use permitted in this district; **and** B. Front Yard: 4) On all other streets, a distance of thirty (30) feet; **and** C. Side Yard: On each lot, except otherwise specified, there shall be two (2) side yards, each having a width of not less than eight (8) feet and the aggregate width of both side yard on any lot shall not be less than twenty percent (20%) of the width of the lot; **and** D. Rear Yard: There shall be a rear yard on not less than twenty-five percent (25%) of the depth of the lot; **and** 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 change rear yard setbacks from twenty-five percent (25%) of lot depth to twenty ft. (20'); front yard setbacks from thirty ft. (30') to twenty-five ft. (25'); side yard setbacks from eight ft. (8') to five ft. (5'); min. lot size from ten thousand sq. ft. (10,000 sq. ft.) to eight thousand five hundred sq. ft. (8,500 sq. ft.); lot width from ninety ft. (90') wide in R2 zone to seventy ft. (70') wide, lot coverage from twenty-five percent (25%) max. to thirty-eight percent (38%) max***

- a) Attorney to Review Legals: David Austgen stated the circumstance with legals are the same as the previous petitions. David Austgen asked the petitioner if they had any objections to proceeding. Ed Recktenwall, Olthof Homes, 8051 Wicker Ave, Ste. A, St. John, IN stated no objection.

The public hearing in The Post Tribune is timely made. The legal ad or notice of the public hearing in The Northwest Indiana Times was not timely made. Would like to comment on this before we proceed. However and moreover, The Post Tribune Notice of Public Hearing was timely made, it was requested to be published July 25 for a July 30 publication date and the newspaper published. The same request was made of the NWI Times on July 25, but the Times did not publish on July 30, they published on July 31. That is not consistent with the requirements of your Ordinance and Rules of Procedure. That is nine (9) days not ten (10) days. Let me make a record about this and my recommendation to you for consideration this evening. Because the NWI Times did not publish as requested timely, officially or legally this public hearing would not be properly before you. All the other notices however have been made, as it appears from the record and I have reviewed with the staff the documentation that requested the publication to the NWI Times. I have seen the emails, I have seen the communications. It just did not get published when requested in that paper according to the schedule the paper puts out. I can tell you

professionally just today I dealt with a public hearing notice myself in a client manner and you have to stay on top of them and if you don't sometimes they don't publish the way you want them to and ask them too. So verifying that everything else has been done and suggesting to you that nine (9) days isn't ten (10) days hence it isn't completely legal, I can also tell you that irregularities may be waived and a one (1) day in one (1) of the forms of notice methods of notice to the adjainers and interested persons who are interested in the proceeding does not seem to be a very major item. I am aware from my research and review of this, the staff was simply trying to help petitioners and hence did not submit till the last second the request for Notice of Public Hearing and that was on July 25, waiting for data from applicants. Those folks here regular basis are assisting our citizens in these applications trying to get them to you, so they can have their opportunity like tonight these folks have here. I call that and I deem that to be substantial compliance. Since all other requirements have been met, one (1) day only has been out of line with legal requirements. It is my recommendation that you deem this noncompliance as irregular yet substantial notice has been given conformance with your ordinance and rules of procedure, that you consider a motion to waive the irregularity and permit the public hearing to be conducted.

A motion was made by Jerry Wilkening and seconded by John Kiepura to waive the irregularities and permit this case to be heard tonight.

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

- b) Petitioner's Comments: Ed Recktenwall, Olthof Homes, here to ask for similar variances, are the South half of the Beacon Pointe project, designated on the drawing as Centennial Phase 15 & 16. Were at Plan Commission and recognized there were some challenges with the Board there and we would like to request a deferral. Request may be modified due to request of Plan Commission.
- c) Remonstrators: Joyce Russell 9628 Eagle Crest Ct., letter attached. Ms. Russell also stated does understand a little more about the lot sizes and all the stuff now. Board is doing a great job.
- d) Building Department's Comments: Michelle Bakker stated we did have discussion on lot sizes at the Plan Commission and would like to continue discussions.
- e) Board's Discussion: Jeremy Kuiper stated the petitioner has requested a deferral. Mr. Kuiper asked Mr. Recktenwall to give information on what changes were discussed. Ed Recktenwall stated have partnered with Schilling on this parcel. Came through with zoning and annexation last year. Some miscommunication on exactly how this would lay out. Some concerns with our continuation of the Centennial project. This would match similar lot sizes and setbacks. Would like to get back to Plan Commission and see what directions we can take this.

A motion was made by Nick Recupito and seconded by Jerry Wilkening to defer to the September Public Meeting per the petitioner's request.

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

## 5. Campbell - Use Variance

Owner: Dave Carey, 7205 W. 145<sup>th</sup> Ave., Cedar Lake, IN 46303  
 Petitioner: Debra Campbell, 5285 W. State Rd. 10, Lake Village, IN 46349  
 Vicinity: 13530 Morse St., Cedar Lake, IN 46303  
 Legal Description: Pt. of Gov. Lot 2 NW.1/4 S.26 T.34 R.9 (150.23x280x150.06x271.71ft) 0.87Ac  
 Tax Key Number(s): 45-15-26-179-035.000-043

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 operate Copper Leaf Organics, LLC and have retail sales of CBD***

- a) Attorney to Review Legals: David Austgen stated the circumstance with legals are the same as the previous petitions. David Austgen asked the petitioner if they had any objections to proceeding. Debra Campbell, 5285 W. State Rd. 10, Lake Village, IN stated no objection.

The public hearing in The Post Tribune is timely made. The legal ad or notice of the public hearing in The Northwest Indiana Times was not timely made. Would like to comment on this before we proceed. However and moreover, The Post Tribune Notice of Public Hearing was timely made, it was requested to be published July 25 for a July 30 publication date and the newspaper published. The same request was made of the NWI Times on July 25, but the Times did not publish on July 30, they published on July 31. That is not consistent with the requirements of your Ordinance and Rules of Procedure. That is nine (9) days not ten (10) days. Let me make a record about this and my recommendation to you for consideration this evening. Because the NWI Times did not publish as requested timely, officially or legally this public hearing would not be properly before you. All the other notices however have been made, as it appears from the record and I have reviewed with the staff the documentation that requested the publication to the NWI Times. I have seen the emails, I have seen the communications. It just did not get published when requested in that paper according to the schedule the paper puts out. I can tell you professionally just today I dealt with a public hearing notice myself in a client manner and you have to stay on top of them and if you don't sometimes they don't publish the way you want them to and ask them too. So verifying that everything else has been done and suggesting to you that nine (9) days isn't ten (10) days hence it isn't completely legal, I can also tell you that irregularities may be waived and a one (1) day in one (1) of the forms of notice methods of notice to the joiners and interested persons who are interested in the proceeding does not seem to be a very major item. I am aware from my research and review of this, the staff was simply trying to help petitioners and hence did not submit till the last second the request for Notice of Public Hearing and that was on July 25, waiting for data from applicants. Those folks here regular basis are assisting our citizens in these applications trying to get them to you, so they can have their opportunity like tonight these folks have here. I call that and I deem that to be substantial compliance. Since all other requirements have been met, one (1) day only has been out of line with legal requirements. It is my recommendation that you deem this noncompliance as irregular yet substantial notice has been given conformance with your ordinance and rules of procedure, that you consider a motion to waive the irregularity and permit the public hearing to be conducted.

A motion was made by Jerry Wilkening and seconded by Jeff Bunge to waive the irregularities and permit this case to be heard tonight.

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

- b) Petitioner's Comments: Debra Campbell, 5285 W. State Rd. 10, Lake Village, IN. Wants to operate Copper Leaf Organics, LLC. Sells CBD products with different distributors throughout Northwest Indiana. Wants to operate business here, only do premium products from Colorado. Manufactured in a FDA approved facility. All products are THC free. Would like to do education at facility, do retail and shipping. Ms. Campbell gave a description of how the products work and affect each person. Would like to be closed on Sunday with one day a week 12-7, the rest 10-5. At this time two (2) employees. Currently has eleven (11) parking spaces. Will redo the old sign. Ms. Campbell gave a medical history and why she started her business.
- c) Remonstrators: David Carey, 7205 W. 145<sup>th</sup>, Cedar Lake. In favor of the variance. Bought the building a few months ago and felt this was a good fit for this area.

- d) Building Department's Comments: Michelle Bakker stated they have updated the building, landscaping and redid the parking.
- e) Board's Discussion: Discussion ensued on parking. Jerry Wilkening expressed concerns with what type of products and if only CBD. Ms. Campbell stated yes just CBD, oil and capsules. The Board asked if they would generate any noise or light pollution. Ms. Campbell stated may have after hour classes, but would not be loud. The Board wants her sales restricted to CBD products and no tobacco products. Discussion ensued on THC products and if it should be restricted.

A motion was made by Jerry Wilkening and seconded by Nick Recupito for a Favorable recommendation to the Town Council for the Use Variance to allow them to operate Copper Leaf Organics and have retail sales of CBD products only, no paraphernalia, no tobacco like products, with the findings of fact to include not injurious to people's health, or welfare, or the use of the area and adjacent property not be affected in an adverse manner. The approval does not interfere substantially with the comprehensive master plan of the Town based on findings.

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

## 6. Schrum – Use Variance

Owner: Midway LLC, PO Box 2009, Cedar Lake, IN 46303  
 Petitioner: Robert Schrum, 13465 Drummond St., Cedar Lake, IN 46303  
 Vicinity: 13106 Wicker Ave., Cedar Lake, IN 46303  
 Legal Description: N. 183.9 FT. OF S. 1328.9 FT. OF E. 263 FT. OF SE S.20 T.34 R.9 CONT'G 1.109 A.  
 Tax Key Number(s): 45-15-20-476-009.000-014

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 outdoor dining, cooking, entertainment (TV's/Music, Etc) and less than the required parking spots***

- a) Attorney to Review Legals: David Austgen stated the circumstance with legals are the same as the previous petitions. David Austgen asked the petitioner if they had any objections to proceeding. Robert Schrum, 13465 Drummond St., Cedar Lake, IN stated no objection.

The public hearing in The Post Tribune is timely made. The legal ad or notice of the public hearing in The Northwest Indiana Times was not timely made. Would like to comment on this before we proceed. However and moreover, The Post Tribune Notice of Public Hearing was timely made, it was requested to be published July 25 for a July 30 publication date and the newspaper published. The same request was made of the NWI Times on July 25, but the Times did not publish on July 30, they published on July 31. That is not consistent with the requirements of your Ordinance and Rules of Procedure. That is nine (9) days not ten (10) days. Let me make a record about this and my recommendation to you for consideration this evening. Because the NWI Times did not publish as requested timely, officially or legally this public hearing would not be properly before you. All the other notices however have been made, as it appears from the record and I have reviewed with the staff the documentation that requested the publication to the NWI Times. I have seen the emails, I have seen the communications. It just did not get published when requested in that paper according to the schedule the paper puts out. I can tell you professionally just today I dealt with a public hearing notice myself in a client manner and you have to stay on top of them and if you don't sometimes they don't publish the way you want them to and ask them too. So verifying that everything else has been done and suggesting to you that nine (9) days isn't ten (10) days hence it isn't

completely legal, I can also tell you that irregularities may be waived and a one (1) day in one (1) of the forms of notice methods of notice to the adjainers and interested persons who are interested in the proceeding does not seem to be a very major item. I am aware from my research and review of this, the staff was simply trying to help petitioners and hence did not submit till the last second the request for Notice of Public Hearing and that was on July 25, waiting for data from applicants. Those folks here regular basis are assisting our citizens in these applications trying to get them to you, so they can have their opportunity like tonight these folks have here. I call that and I deem that to be substantial compliance. Since all other requirements have been met, one (1) day only has been out of line with legal requirements. It is my recommendation that you deem this noncompliance as irregular yet substantial notice has been given conformance with your ordinance and rules of procedure, that you consider a motion to waive the irregularity and permit the public hearing to be conducted.

A motion was made by John Kiepura and seconded by Jerry Wilkening to waive the irregularities and permit this case to be heard tonight.

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

- b) Petitioner's Comments: Robert Schrum, 13465 Drummond St., Cedar Lake. Looking to move business to a larger location. Current location is too small. Frank's Backyard BBQ is the business. Hours would be same as current, except will be every weekend instead of every other weekend. Mr. Schrum passed out information to the Board. Outdoor entertainment would include bean bags, bocce, possibly a tv and occasional live music until 10:00 p.m. Eric Lindemulder stated will have twenty (20) spaces possibly more as fix the surrounding property. This is an old building, it will be painted and make it look better. Are hoping to have twenty-one picnic tables inside and outside. Will have two (2) kiddie tables that equals one (1) adult table. Will clean up pavement and add to it, will seal coat it. Will wait to do the front until they widen 41. Will do everything they can to make it look better and clean it up. This will be a family restaurant. There is a lot of carry out.
- c) Remonstrators: Debbie Howe, 13800 W. 135<sup>th</sup> Ave., Cedar Lake, IN. Has concerns with the parking spaces being too close to the property line and with them paving everything, there is no green space and already have water issues. Discussion ensued on drainage. Also concerned with noise from the live music.  
Robert Carnahan, 12850 Fairbanks St., Cedar Lake. At one time Mr. Schrum wanted to put his business near the Town Club and I totally opposed that and he listened. Want to see him in a brick and mortar, put his business in a building and I'm commending him on he said what he was going to do and he didn't do something I didn't like to see in our Town.
- d) Building Department's Comments: Michelle Bakker stated as long as they comply with this plan that they presented, it is a good option. Doing a lot to the property, has a nice buffer in the back against residential. The petitioner did meet with us and we did require all of these things be brought to your attention.
- e) Board's Discussion: David Austgen asked if the outdoor entertainment should be considered similar to Bugaboo's approval, with a set number of events. Jerry Wilkening stated Goodfella's music stops when the noise ordinance starts. Does not think there is enough information with what they presented. Need a site plan, not just a concept. Discussion ensued on the buffer and parking. Jeremy Kuiper stated if he is saying he will have twenty (20) spaces a Town minimum and he doesn't the plan will fall apart. That does not change if we have a site plan or not, it is how it is worded. Eric Lindemulder addressed the issues Ms. Howe brought up about the property line and parking. Aware of the culvert issues and are planning to do work after they widen 41. Mr. Schrum stated does not want to serve alcohol and would just like a small outside music event occasionally. Plans to direct the music toward 41 not toward the residential. The other building is a separate parcel. Employee parking is in the back. Jerry Wilkening's only concern is this is a concept picture not a site plan.

Eric Lindemulder stated this is not a new business. Michelle Bakker stated whatever you approve, if you approve it, they are allowed to have this many parking spots, this many tables, whatever you laid out and is approved by the Town Council is what will be done before he can occupy the building. That is why the list of guidelines and requirements that you want will need to be laid out perfectly so we can follow your request before they open the building. If can't fit twenty (20) spots he will have to come back or remove tables. John Kieपुरa stated he would like to see a site plan also. Jeremy Kuiper stated he is failing to see what a site plan would show any different than their plan now. From the work that has been done with the Building Department with them and the request for them to present it that way. Wording is critical, if we say twenty (20) spaces and they don't meet that it won't happen. If we say twenty (20) spaces as presented. Discussion continued about parking and site plan. Jeff Bunge stated he feels this was a well presented plan. The Board briefly discussed the lighting on the property.

A motion was made by Jeff Bunge and seconded by John Kieपुरa to send a Favorable recommendation to the Town Council for the Use Variance to have outdoor dining, cooking, limited entertainment, and parking spots that comply with the formula of 1 picnic table to 1 parking space with either table being indoor or outdoor, with 21 being maximum including the formula for the kiddie tables and for the formula 20 parking spots; with the hours of operation being allowed to be Wednesday to Sunday presently of 9 am to 12 am midnight; and significant storm water issues addressed; deliveries and prep work on Monday and Tuesday, not open to the public; any live events be restricted to quite time to our noise ordinance, with 2 live outdoor events permitted per calendar month; and include the findings of fact to include use variance does not offer significance or variation to the master plan of the Town, will not be injurious to the welfare, safety and morals of the general welfare of the community, and does not feel the use and value of the area adjacent to the property included in this variance will be substantially affected in an adverse manner.

Jeff Bunge amended the motion to include the phrase holidays to the Wednesday through Sunday 9 am to midnight.

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

## 7. Sadler - Use Variance

Owner/Petitioner: Julie Sadler, 13237 Truman Circle, Cedar Lake, IN 46303  
Vicinity: 13536 Morse St., Cedar Lake, IN 46303  
Legal Description: Woodland Shores Add. Outlot D & Pt. of Outlot A Ly'ng N. of Outlot D  
Tax Key Number(s): 45-15-26-179-049.000-043

Request: Petitioner is requesting a Use Variance from Zoning Ordinance No. 496, Title XIV-General Business (B-3) Zoning District

***This Use Variance is to allow the Petitioner to occupy the building with no privacy screening and to have outdoor storage of trucks, trailers, work boats, shrink-wrapped boats and boat lifts during the non-boating season with screening***

- a) Attorney to Review Legals: David Austgen stated it appears the certified list of adjacent property owners is in evidence. One green card return, no white mailings. The public hearing in The Post Tribune is timely made. The legal ad or notice of the public hearing in The Northwest Indiana Times was not timely made. Would like to comment on this before we proceed. However and moreover, The Post Tribune Notice of Public Hearing was timely made, it was requested to be published July 25 for a July 30 publication date and the newspaper published. The same request was made of the NWI Times on July 25, but the Times did not publish on July 30, they published on July 31. That is not consistent with the requirements of your Ordinance

and Rules of Procedure. That is nine (9) days not ten (10) days. Let me make a record about this and my recommendation to you for consideration this evening. Because the NWI Times did not publish as requested timely, officially or legally this public hearing would not be properly before you. All the other notices however have been made, as it appears from the record and I have reviewed with the staff the documentation that requested the publication to the NWI Times. I have seen the emails, I have seen the communications. It just did not get published when requested in that paper according to the schedule the paper puts out. I can tell you professionally just today I dealt with a public hearing notice myself in a client manner and you have to stay on top of them and if you don't sometimes they don't publish the way you want them to and ask them too. So verifying that everything else has been done and suggesting to you that nine (9) days isn't ten (10) days hence it isn't completely legal, I can also tell you that irregularities may be waived and a one (1) day in one (1) of the forms of notice methods of notice to the adjoiners and interested persons who are interested in the proceeding does not seem to be a very major item. I am aware from my research and review of this, the staff was simply trying to help petitioners and hence did not submit till the last second the request for Notice of Public Hearing and that was on July 25, waiting for data from applicants. Those folks here regular basis are assisting our citizens in these applications trying to get them to you, so they can have their opportunity like tonight these folks have here. I call that and I deem that to be substantial compliance. Since all other requirements have been met, one (1) day only has been out of line with legal requirements. It is my recommendation that you deem this noncompliance as irregular yet substantial notice has been given conformance with your ordinance and rules of procedure, that you consider a motion to waive the irregularity and permit the public hearing to be conducted. Now with that being said, is the petitioner here for this. Sir did you hear what I had to say? Do you any objection to a waiver of the irregularity by this Board to hear you tonight? The petitioner stated No. Mr. Austgen then asked any fears for concerns that it may impact you adversely. The petitioner stated No not at all. Mr. Austgen stated Mr. Chairman my recommendation is based upon the record I made, the information that is in my file and in your staffs file of these proceedings that you consider a motion to waive the irregularity and allow the public hearing to be conducted as the irregularity has been waived and public hearing notice has been given, based on that record.

Jeremy Kuiper stated so the advice of the Counsel is before we proceed with this item is to waive the irregularity of the notices with substantial notice already being given. David Austgen stated please note also that the petitioner has no objection, has been notified in this proceeding and has no objection. Jeremey Kuiper asked the petitioner to stated his name and address for the record. Jason Walker, 7619 Lake Shore Drive, Cedar Lake, IN 46303. Jeremy Kuiper asked if there were any questions or comments. There were none. David Austgen asked the Chairman to request the recording secretary to put this record verbatim in the minutes. Mr. Kuiper stated please do as such. Tammy Bilgri acknowledged.

Jeremy Kuiper restated the variance request. David Austgen stated please remember we have only one (1) green card for notice to adjoiner and we need the mailing or green card to complete this. You can proceed, with this contingency.

A motion was made by John Kiepura and seconded by Jeff Bunge to waive the irregularities and permit this case to be heard tonight.

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

- b) Petitioner's Comments: John Hughes, 8585 Broadway, Merrillville, IN introduced himself as the attorney for Lakefront Solutions LLC, of which Sadler is a member of Lakefront Solutions. Hughes stated there was a plan in the packet and photograph of the front of the building of the business that is to be conducted there, which involves basically storage of the materials for sea wall construction, which is not

offsite. He stated Ms. Sadler's business involves the storage of equipment and other components with the building and some work on those components. Hughes indicated there is some outside storage required. He presented a photo and stated it shows the back of the property goes to the telephone pole, stating you can see the stake in the back. He stated he feels the neighbor's driveway is partly on their property. He stated the storage would be along the back wall of the building and the palates would be 4' x 6'. The staircase juts out 6' from the building and the storage of these palates would be with the 4' measurement on the side that is consistent with the staircase. It would not stick out from the staircase. Other than the palates, which are temporary, basically they are brought in for a particular job and they are stored temporarily until they are used on the job site. They are not a permanent situation and would not be present in the winter. There has always been an open space. The building was built according to tax records in 1967. It looks like it was a gas/service station at the original and had multiple different uses over the years. Hughes stated Sadler will be primarily the person that is on premises when anyone is there; she may have a helper. Most of the work is done off site. They are building sea walls. And so, there is not going to be any sales or customers coming to that business and it should be a quiet type of business for that particular location. That is the main part of the variance that she is requesting and the second part is that in the off season, she would like to be able to store shrink-wrapped boats in that back space and from time to time instead of people paying their full bill, they may have a piece of equipment like a boat lift that they want to sell and Ms. Sadler would like to have the ability to use the southeast corner of the parking area to sell from time to time, not on a regular basis, that type of equipment. If she were to do the shrink-wrapped storage, she would understand that the ordinance that requires some type of buffer that she would have to comply with that. As for just the operation of the Lakefront Solutions Sea Wall business, we don't believe that's necessary. There's never been any buffer planting there. The commercial business next door does not have any buffer planting along the rear yard of the neighboring residence, so we don't feel that it is necessary. If you have any questions, we're happy to answer them.

Kuiper stated he wanted clarification on their comment about there was no privacy screening, they don't feel that they need to put any in. Hughes stated they do not feel it is necessary. The distance between the stairway and the property line is over 42', a grassy area, and it has been that way as long as anyone can remember, and probably since 1967. Kuiper asked if there have been items stored in that area forever. Hughes stated he did not know. Kuiper asked if items had been stored there at any time. Hughes stated he did not know and referred to Julie Sadler. Sadler asked Kuiper if he felt she was requesting no screening with outdoor storage. Kuiper stated he asked why not put up a fence and he's understanding that there was never a fence there and that's why we don't need to put a fence up, but stated his follow up question was have we ever parked things like she's suggesting back there. Sadler stated last year there were repair boats in the back area. Hughes stated the boat storage would be seasonal, obviously not intended for year-round. Kuiper stated he does not see why the need for a fence is no longer needed between a residential and business, especially if they are going to use the space between residential and business to park material equipment, boats, etc. Kuiper stated he feels the whole point is that he certainly would not want to walk out his door and see boats and lifts and things parked. Hughes stated that is why it is a two part request, stating the first part is to operate the sea wall business and the only thing that would be outside is the temporary storage of the sea wall components against the building. He stated she would like also, not part of the first request, to be able to seasonally store boats back there and she understands if she would do that, the Town would require a screening to accomplish what Kuiper just indicated. Kuiper asked Hughes if the intent that they were putting up a fence or not putting up a fence. Hughes stated if the Town would permit the seasonal storage of shrink-wrapped boats in that area, the screening would be put up. Kuiper stated should outdoor storage be approved that would also necessitate putting a fence up. Hughes stated that was correct.

- c) Remonstrators: Dave Carey, 7205 W 145<sup>th</sup> Ave, stated he had two major concerns. He stated individuals know Sadler's previous location and the condition those

premises were in, indicating there was junk all over the location. He stated there is very little room between that building and the lady's property to store boats. Carey said he just redid the building next door with a major investment, and he would hate to see the property in the condition of what the old one was, stating that was his first concern. He said he has not seen the report that was done. He knows it was a gas station and he has done some research on the tanks himself, of course he was going to request a Stage I Soil Contamination Study on that property before any business can go in there. Carey stated he has talked to several people in the Town including the fire department, and no one could tell him the condition or status on those tanks were. Kuiper asked Bakker to confirm what the status was. Bakker stated she did not know what that document stated. Austgen stated in 2015, IDEM indicated a letter to the property owner and the Town that any violations that had existed had been addressed. Carey stated he knew there was an existing tank in the back to this date and that was his concern.

Sheri-Lyn Schubert, 7204 W 136<sup>th</sup> Ave, stating she was the property adjacent to Sadler's property. Schubert stated she felt she needed to come to the meeting tonight because she was feeling threatened when Sadler was denied the use she was requesting again when she came in April with her skid steer and put giant boulders down on the property line. Schubert said she knows there's a 15' property line, but the boulders were put directly on the property line. She knows her property is tight and she might encroach on her property when she opens her car door and since the boulders have been put in there, she's hit her car door twice, which was an older car but she now has a newer car. She stated her niece fell on the rocks and cut her head, which was minor and she wasn't going to be petty about it but feels it's an outlet of unsafe area with the boulders. Schubert stated Sadler recently mowed, which she does once a month, and doesn't mow around the boulders and wanted to show a couple pictures, showing the boulders and her mowing. She stated she mowed down the boulder line and chute of the grass could have been the opposite way but instead she made it shoot directly at Schubert's car. She stated we are a neighborhood and are neighborly and she couldn't be so opposed to what she wants to do if she would be a little neighborly. She said it may seem petty but those were her concerns and how she felt threatened by her doing these things. As far as the property goes, Schubert stated there was a cone behind the building that indicated the head of the tank. She stated she doesn't know if IDEM was misled and they didn't see the head of the tank, but that before the building was up for sale, Schubert stated they unscrewed the cap, dropped a rope into it and indicated it has fluid in it. She stated the smell indicated gas, diesel or something automotive. Schubert stated to be told there is not a tank there, she can tell the group for a fact there is a tank there. She said that whether what's in it is leaking, she doesn't know. She agrees with Carey that testing needs done. As far as putting heavy machinery atop the tank, it is a concern for her. If it is an old tank, will that put pressure on it, will it burst. She stated they live on wells and it has been brought up in the past. She has concerns about the looks of what Sadler is doing, noting there had nothing been stored in the back for 16 years until Sadler came. She said she is not opposed to storage but is opposed to storage with the possible damage to the tank and her well concern along with the upkeep like the grass around the boulders and if it is going to continue.

Eric Lindemulder, PO Box 2009, Cedar Lake, stated this is the first time he's hearing this. He would like consideration that he wants to see everything in Cedar Lake cleaned up. So, if she's going to clean up the building and keep stuff enclosed, great. He would just like to see it cleaned up and enclosed so you can't see it. He said it's 6 units outside of the fenced in area and feels that it would be packed. He thinks it is an eye sore. He thinks a lot of people are up and down Morse that are trying to clean things up, trying to develop things, and if we ok this without some type of parameters to keep it clean, and if she agrees to it then great.

Debra Campbell, 5285 W St Rd 10, Lake Village, inquired about the fence line on the north side stating it's a business. She indicated she is the business that is proposing to go into that location. She is looking for clarification as she thought Sadler said it was only going to go on the west side and they didn't need coverage on the north side because there was a business. Campbell indicated she didn't want to look at boats being stored and equipment out in front and if there's not enough room for the

boats in the back, are the trucks, trailers, and boat lifts going to end up in the front on the parking lot, because it is not a business for retail.

After call for any other remonstrators for or against this petitioner, Kuiper called the public portion of the meeting closed. He then asked for the petitioners to come up front.

Kuiper asked Sadler to expand on the inspection had been done on the fuel tanks. Sadler said she had the paperwork and it could be emailed again. Kuiper asked if she could tell the group what the inspection was and the findings. Sadler stated she got the paperwork from the prior owner. She stated it was an oil tank like for a furnace, not a fuel tank. Kuiper asked if she had it inspected or if it was just paperwork from prior owner. Sadler stated "I did that yes" but stated when IDEM came out and she was present with them at the time, she showed them where the tank was; IDEM saw where it was capped and they didn't have a problem with it. She told IDEM she had paperwork from the prior owner stating it was taken care of. Kuiper asked what the date was on that. Sadler stated she thought it was 2015. Austgen stated it was 2015 documentation from the EPA. Sadler stated IDEM was out at the beginning of this year and that's when she showed him the tank and it was capped off, stating IDEM didn't have a problem with it. Kuiper asked if she had anything in writing from them. Sadler said she would have to check. Hughes stated he was troubled by the representation that is made based on what would amount to trespass on the property, stating it was troublesome. Austgen stated there had been a report of a complaint of a violation and IDEM came and inspected and cleared the complaint of violation notice. It appears in the 2015 letter, representing John Howard signed it in an official capacity and it is located in the file. Kiepora asked how long the tank had been in the ground. Schubert stated the complaint was her complaint, clarifying the complaint was that the business took 3 or 4 barrels that were in the building and put them behind the building. She said they were antifreeze that was leaking. Her dog licked the antifreeze and died and that is why she made the complaint. She stated they did come out and clean up those barrels, but there were two parts to the complaint – the barrels and the tank, clarifying that when they did come out and clean up, they cleaned up the barrels. Austgen stated the letter of clearance is very generic and does not specifically reference anything other than coming, making a record review in their office, making a site inspection, and clearing as a consequence. He stated that's all it says and is six lines. Kiepora stated his experience with gas tanks was when he had a 3000 gallon tank in the ground. When he sold his building, it cost him \$15,000 to have EPA come out and do a hazardous material evaluation of my property. They found an oil tank, which by the way oil is fuel, and they found another tank (had 2 acres) back in another section. What they do is they core down around the tank to a certain depth, not sure if to the bottom of the tank or deeper, pull the core samples out and check it to see if there is an leakage on his existing 3000 gallon tank and the 2 he didn't know were there. If there is contamination, then it is the owner's responsibility to clean it up. If there is fuel in that tank, then you can request to abandon the tank, which is usually done with the Fire Marshall. They take the oil or whatever is in the tank out and they classify it as abandoned, and thinks you can do that for up to 2 years, then you have to either use it or pull it out of the ground. Kiepora felt an inspection needed to be made of the ground area around that tank or any other place that tank may have been on that property to see if there is contamination. Kiepora stated where Holiday Liquor store was before the condos came in, there was a gas station there, and they spent over a year pulling dirt out and running in a conveyor and burning the contamination out. Kiepora stated it is serious business if there is contamination and that would be one of his concerns. Hughes stated he felt all he can rely on is the official state and federal agencies that have made their inspections. Kiepora stated that in order to satisfy at least himself on this board, is to show him the core sample results. He stated if the remonstrator is stating there is a tank in the ground and she worried about leakage into her well system, then Kiepora does not want to say go ahead and build and do what you want. He wants to be shown the contamination reports showing if the soil is clean or if a leakage or if the tank is full. Kiepora stated

his experience was in Illinois, and that Indiana may have different laws, but that was his experience when he sold his property. He stated he is trying to protect the residents around this property and trying to protect her because if she goes in there and she is on well water and it leaks into her system, they could be sharing the same water. He stated it is not trying not to be a hard point, but a correct point. Wilkening asked Sadler to clarify her comment made earlier about this being a different business because there were less trucks, asking her to note if that was the difference. Sadler stated she had downsized. She stated she is the sole owner of Lakefront Solutions and downsized considerably. She stated the nature is mostly just sea wall application. Kuiper asked her to contrast to what she had done previously. Sadler stated it was piers. When asked how many employees she anticipated, Sadler responded just one. Hughes stated, with Sadler's confirmation, that she may have a helper from time to time. Kuiper stated one of the remonstrators commented trailer, boat, and truck parking for the front and asked what was preventing her from parking boats and lifts in the front. Sadler stated that is not what she is requesting. Kuiper stated some of the concern was that items from the back yard could be moved to the front in different season. Sadler stated no, that it would either be in the water or gone. Kuiper asked if the stuff stored in the rear that Sadler was proposing would not overflow into the front; Sadler responded correct. Kuiper said, just the trucks, trailers, and work boat would only occupy the front space. Sadler stated only the equipment for the operation of the business. Sadler was asked if she would consider putting a fence on the north side for the other remonstrator regarding appearance of their building. Sadler stated it was not residential property and doesn't see a need for it.

- d) Building Department's Comments: Bakker stated she and Kubiak drove to the location yesterday and pictures were taken. She stated they were a little concerned with the outdoor storage and a 15' buffer strip. They want to have outdoor storage as long as they would put up a fence and have a 15' buffer strip. She stated, if you notice there's a green spray paint on the photo and they parked the truck 15 feet from the requirement. She stated she didn't know how many vehicles, what the layout or idea was, but never heard anything about palates, but didn't know how much or what kind of things would be stored and how they would fit. Hughes stated the palates would fit up against the building and would not extend out as far as the staircase comes out. He stated the staircase comes out about 6' and the palates would extend out only 4'. Hughes restated they would be stored up against the wall. Sadler stated the storage would be just from time to time. She stated if she had a job for vinyl sea wall, the items get brought in on a truck, and it would be enough for 2-3 jobs on a palate then it would go out to the job site. Kiepora asked what the material was on the palate. Sadler stated it was components for the vinyl sea wall. Bakker asked if the palates were being stored next to the building under that stairway, how would equipment be stored or shrink-wrapped boats and being able to get to these palates and maneuver and get around, stating her concern for the spacing. Hughes stated they were not being used at the same time. He indicated there would not be palates there in the winter when there is boat storage; they are not consistent with each other. He stated the sea wall storage is seasonal because they are only building sea walls during the summer, spring and fall, noting the boats are stored in the winter, so they don't interfere with each other. Bakker stated she wanted to make sure because in the past there have been complaints about outdoor storage and layout was appropriate so that it doesn't disturb or distract or cause hardship for anyone around there.
- e) Board's Discussion: Kiepora asked how many boats she felt would or could be stored behind there. Sadler stated basically at 35' from the building to the buffer, so she felt probably 3 across. Kiepora stated at 42', with 15' of buffer off, that leaves her with 27'. Sadler stated it was 50' to the building. Hughes clarified it was 48' on the plat. Austgen stated the plat was not part of the record; Hughes confirmed. Hughes stated if you added the 44-1/2' and the 26.6'. Bunge asked how they would get stuff in and out of that out lot. Sadler stated it would be seasonal so the boats would be backed in. Bunge asked if there was room with telephone cables. Sadler stated it would be on the east side of the cable. Bakker asked how many feet were left there by their calculation. Hughes stated 48' to the back of the building and 6' of staircase,

so it would be 42, then 15' to the lot line. Kiepura stated it would be 27 feet from the buffer zone left there. Kiepura asked again, as he stated he didn't hear an answer to his previous question, how many boats could possibly be in store there. Sadler responded no more than 12. Kiepura asked how long, with boats being on a trailer. Sadler stated 4 wide on the north end until you get to the staircase and then getting 8 in the location. Kiepura asked about the 4 wide and the beam of the boat. Hughes stated 8' with the trailer being closer to 10. Kiepura stated with 4 wide, there's only 27', stating they couldn't park on the easement. Hughes stated there was 27' to the staircase and the question is how many can you get in the 27' space between the buffer and the staircase. Sadler stated about 7; 3 on the north, 2 in the middle and 2 on the south part. Kiepura asked if they would be brought in from 136<sup>th</sup> Ave. Hughes stated that would be correct as it was the only access for the boats. Bakker asked what was in the picture that was stored there, if they were the shrink-wrapped boats and how big are they. Sadler stated the trailer is 9-10' wide and then depending upon the length of the boat. Bakker asked if she was thinking 2 deep then; Sadler stated 3 deep. Bakker stated she could not go past the front of the building because there would have to be a fence there, so there needs to be a fence. Sadler asked if Bakker was talking along the south; Bakker said yes. Bakker stated all outdoor storage would need to be fenced in. Sadler stated that when they spoke that she couldn't go beyond the building without a variance for outdoor storage. Sadler said Bakker told her she wouldn't have to get a variance, come to a meeting, or anything for the outdoor storage if it didn't go past the building. Bakker stated that was not correct and that she didn't need to come to the meeting for a fence if it didn't go past the building. Bakker said that on a road, no matter what, she cannot have storage or a fence past the front of the building. Sadler stated she wasn't sure how much she'd have stored at any time and noted boats and boat lifts. Kiepura stated the boat lift would be bigger than the trailer. Bunge asked what type of fence she would propose, if it would be a landscape screening or fence. She said no. Bakker confirmed for members a fence would need to be 6'. Members asked for Sadler to confirm; she indicated she would not fence it but rather she would screen it with vegetation. Kuiper asked if during the non-boating season, if items were still going to be stored in the back and asked that boating season be defined. Sadler stated October 15 through February 15. Sadler stated the sea wall panels would be the only item stored against the building noting as Hughes indicated them not coming past the stairway. Kuiper asked if she would be keeping it as a grass area and if the shrubbery row would be on the north side of the out lot. Sadler stated it only is required butting up to residential. Hughes stated commercial was on the north side. Kuiper stated nothing would be on the north side, just on the west side, and nothing on the south side. Kiepura asked where the work boat would be parked. Sadler stated it would be on the south side of the building in one of the two parking spaces. Kiepura asked where she would park. Sadler stated she has 2 trailers and 2 trucks and 2 work boats; she knows she needs 6 spaces for equipment, and that leaves 2 spaces for her. She indicated the trailer would go directly south of the building and the workboat would go south of that in the 2<sup>nd</sup> parking space. Kiepura stated she need indicated she needed a total of 6 spaces for her equipment, Sadler confirmed. Kiepura said the plan only showed 6. Sadler indicated there are 2 out front. Kiepura asked if it was at the for sale spot. Sadler said it would be at the for sale &/or parking. If she had something for sale, the boat lift or whatever would go in that spot. Kiepura asked then where would she park. Sadler said she did not intend to possibly never sell anything out front, but wanted an option if she had it so she would still have ample parking. Kiepura asked what type of trucks and trailers she had, like a flat bed. Sadler stated she has one excavator trailer that is a 20' trailer, one dump trailer, a Ford F-350 and a Ford F-150 pickup truck. Sadler stated the skidster (?) on the trailer would go out next morning, if it doesn't go out the next morning, it would stay on the trailer and most likely go back inside the building. Kiepura asked if the area was paved; Sadler stated yes. Kiepura asked when they store if it had to be paved, gravel or grass. Kuiper stated the request was for grass. Kiepura asked if there was an ordinance stating they had to put it on a parking lot type substrate. Austgen indicated he thought storage was to be on pavement. Sadler asked if it would be for seasonal, indicating Natalie Samara stored hers on grass. Austgen

stated he did not know if that had been permitted. Kiepura asked how Sadler would move the pallets around, asking if she had a forklift. Sadler stated she had a forklift skid steer. Kiepura asked if it was pneumatic or hard tire; Sadler stated it was tracks. Kiepura asked if she took it out to jobsites; Sadler stated yes. Wilkening noted the grassy area remaining the same way. He asked, the piece of property overall, what relation in proportion is it compared to the last property she operated her business out of, asking if it was half the size. Sadler stated it was more than half of the other property. Wilkening asked how it was different. Sadler indicated there were two trucks and two trailers. Wilkening stated that according to his calculations, the other piece of property was 22,000 square feet and this one is less than 10. Sadler said it was totally different. Kuiper asked for Sadler to describe the vegetation fence, what it would look like, and what would be included. Sadler stated it would be evergreen trees planted every 5' at 4-6' high. Wilkening asked if the underground tank in the grassy area still exists; Sadler stated yes. Wilkening asked if it has been checked and if IDEM said it was fine; Sadler stated yes and has email to show.

After remonstrators spoke, Kuiper asked if there was any further board discussion. Lindemulder stated along with all of the other valid points brought up, he travels past Cedar Point by way of 136<sup>th</sup> Avenue quite often and the parking along Morse St is very difficult to get out onto Morse St from 136<sup>th</sup> Avenue if those were being counted as parking spaces. He would like to not see anything parked there if at all possible, especially looking out at southbound traffic on Morse. Sadler stated it would be behind the green space. Hughes stated he did not think those parking spaces would interfere at all because individuals would be up passed the sign. Bakker stated there were a few people that had complained about a black tank and couldn't see past that area. Kiepura asked if there was a plan to do any upgrades to the building, like painting. Sadler stated the north side needs painted, but the rest of it is in pretty good shape. She planned to reseal the parking area and stripe it. Bakker asked Sadler what her plan was for the back for outdoor storage, if it would be paved. Sadler stated they would leave it as grass since it would be seasonal. Recupito stated he would really like to see something occupied in there, but does not know if this plan is that much of an improvement from that last one that was proposed that was denied. Sadler stated the last one was strictly for outdoor storage, noting nothing with regard to occupancy of building. Recupito stated the last proposal was for another business operation that this seems similar to the last proposal. Sadler stated this was different as it was seasonal boat storage, which she indicated Wilkening told her it would be a good spot for seasonal boat storage and boat lifts. Recupito stated she'd have things stored outside of the building including trucks and trailers. Sadler said it was day to day equipment, like any other business would have. Recupito stated they put restrictions on outdoor storage for businesses and things being stored overnight. Sadler asked if they were in a parking area. Multiple members responded yes, we have, and absolutely. Hughes stated this is going to be equipment that is used day to day for her business that would be stored or parked out front. Kiepura stated it would be stored over the winter because she would not be putting up sea walls in the winter clarifying that it is not a day to day business 365 days a year. Kiepura said construction equipment is construction equipment, made to get banged up and dirty. However, it is how the equipment is maintained as to how it looks and when it is parked on the property, if maintained properly, it doesn't become an eye sore. Kiepura said he had trucks over 35 years old but they looked great because he maintained them, and they were kept behind a fence. He is not advocating that, but just saying he understands construction equipment gets beat up and comes back dirty, especially a backhoe. Sadler was asked if she would keep equipment there all year long. Sadler said she only owns 2 pickup trucks and the machinery would be inside. Bunge asked if the trailer would be inside or outside. Sadler said the trailer may be inside, or there may be 2 trailers outside. It was stated there are 6 pieces of equipment being presented as part of her business with 8 parking spots and it was asked of Sadler if those will be parked outside during the winter in those spots. Sadler stated yes. When asked with the other two parking spots being marked as occupied or for sale during the winter, would things other than that be parked there, Sadler stated more than likely it would not and it would just be

her personal vehicle, not storage parking. Sadler stated the two trucks and most of the time the one trailer are out on the job site every day. Sadler stated it is business operations, no different than construction equipment. Members confirmed that in the past they had requested that businesses store their equipment inside. Kiepura asked what Sadler does with the debris from the job site. Sadler stated it was just small pieces of sea wall that is cut off that she puts into the dump trailer and takes to the dump in Lowell. Kiepura asked if she brought it back to the yard. Sadler stated no.

- f) Recommendation to Town Council: Nick Recupito made a motion that the board send an Unfavorable Recommendation to the Town Council for the Use Variance as presented. Recupito believes first and foremost the area adjacent to this property will be negatively affected and there could be some public health issues, especially with the tank that may be underground. Jerry Wilkening seconded the motion as stated by Mr. Recupito.

President Jeremy Kuiper reread the motion by Mr. Recupito and seconded by Mr. Wilkening to send an Unfavorable recommendation to the Town Council for the Use Variance and to include the findings of facts as stated by Mr. Recupito and seconded by Mr. Wilkening.

A motion was made by Nick Recupito and seconded by Jerry Wilkening to send an Unfavorable Recommendation to the Town Council for the Use Variance to allow the petitioner to occupy the building with no privacy screening, and to have outdoor storage of trucks, trailers, work boats, shrink-wrapped boats and boat lifts during the non-boating season with screening as presented and to include findings of fact the area adjacent to this property will be negatively affected and there could be some public health issues, especially with the tank that may be underground.

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

**Public Comment:** None

**Update Items:**

Nick's Tavern-October

**Adjournment:** Time: 11:45 p.m.

**Press Session:** Board of Zoning Appeals Meeting – September 12, 2019 at 7:00pm

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Nick Recupito

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Jeff Bunge, Vice Chairman

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Jerry Wilkening

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Jeremy Kuiper, Chairman

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John Kiepura

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Attest: Tammy Bilgri, Recording Secretary