



**TOWN OF CEDAR LAKE
BOARD OF ZONING APPEALS
PUBLIC MEETING MINUTES
October 10, 2019 7:00 P.M.**

Call to Order (Time): 7:02 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

Absent Tim Kubiak, Director of Operations

Present Michelle Bakker, Building Administrator

Present Tammy Bilgri, Recording Secretary

Minutes:

A motion was made by John Kiepura and seconded by Jeff Bunge to approve the September 12, 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. **Nick's Tavern Update** – Petitioner was not present. Jeremy Kuiper asked if they had been contacted. Tammy Bilgri stated a letter was sent September 30, 2019 with no response.

A motion was made by Jerry Wilkening and seconded by Nick Recupito to send the Petitioner a certified letter requesting their presence at the November 14, 2019 Public Meeting.

Vote 5-0

2. 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 there was very brief discussion at the Town Council meeting. Mr. Neff who is here with Ms. Sadler appeared. They came to that podium and presented some additional information to the Town Council. That information was handed out and circulated; there was a very short discussion on what to do next. The Town Council returned the petition to the BZA for assessing what this additional documentation means and next actions, whatever they are.
- b) Petitioner's Comments: Eric Neff here on behalf of Julie Sadler. What has taken place is new material was submitted at the Town Council meeting, they remanded it back here. Tonight the Use Variance says it 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. The materials that have changed would be taking out the shrink wrapped boats, the boat lifts during the non-boating season with screening and there is going to be privacy screening in the back of the property. Client is seeking to obtain an occupancy permit, she has bought and paid for this building. She wants to use it for her work at Lakefront Solutions. Would like to work inside the building, a workshop, no foot traffic. Only client and one employee, will have three (3) parking spots, used for employees and maybe a truck. Would install a six ft. (6') wood fence as shown on the new drawing. No outside storage until the fence is installed. Is planning to paint outside of building where paint is flaking, sealcoat and stripe the front asphalt parking area and the issue of the oil tank, materials in the information that was not presented at the public hearing. David Austgen stated this is the new material presented to the Town Council. Mr. Neff stated all the concerns from this Board were addressed and now she just wants an occupancy permit to start making some money on the investment she made last year. Jeremy Kuiper stated just to get the timeline correct, our meeting was conducted on August 8, the date of the inspection and the letter from the inspector were dated after that on 19th and 16th. So after the meeting the client sought more information based on our discussion. Mr. Neff stated he would view the changes being made as minor changes with respect with the notice requirement. This brings her close to compliance. Nick Recupito stated the fence is the hold up, we have a lot of people coming in for fence variance requests. Doesn't know why it meets the criteria to not have to be readvertised. Mr. Neff stated the issue was the original was she was not going to have a fence and now she is. The reason is they didn't want the storage in the back of the building viewed by other people. Nick Recupito asked Michelle Bakker this fence does it meet the zoning ordinance? Ms. Bakker stated no, you cannot have a fence in the front yard. Mr. Recupito stated it is a variance request to have this fence. Jeremy Kuiper stated we conducted a public hearing on the 8th, that was properly advertised and we had remonstrance and people attending and conducted the hearing with the information given. Now we have new information that was not available to those people, discussion that was not available. Do not see how that without another advertisement we can be hearing this, since this was done after the meeting. We have had people come back after taking our recommendations and represent and make corrections or additions, but under the same request cannot recall that ever happening. This was new information obtained after the public hearing. Nick Recupito stated wants to hear this, just needs to be done fairly and readvertised, this is a new variance request. David Austgen stated given the explanation of counsel and our understanding from that. There is an amendment to the petition needed, so it is clear as to what is being requested. We know on this particular property that there are interested parties.

- c) Remonstrators: None
- d) Building Department's Comments:
- e) Board's Discussion: Jeremy Kuiper stated this item was sent to the Town Council with an unfavorable recommendation and returned to us. Mr. Kuiper asked Mr. Austgen if this would need to be readvertised. David Austgen responded with that depends on what you deem the documentation that was presented means and whether it is of substance sufficient to either reboot this proceeding or require it be recommenced in the sense of noticed public hearing, etc. So it is a question of degree and it is in your discretion. The meeting minutes of August 8 contain extensive dialogue that was had here. How you view this additional information against all of that and the right of the public to appear is a call for you to make here and now. The Board asked if there was a new application. David Austgen stated the public hearing was conducted on the application that was tendered and that is what the meeting minutes from August 8 reflect. There was no additional or amended application filed, we only received the documentation that was supportive of the request that was handed out to the Town Council. Jeff Bunge asked at the Town Council's request by adding these couple of proposed improvements, they felt it was deemed reasonable to come back to us. David Austgen stated no, observing and hearing the context, they received additional information, they knew that you as a body had conducted the public hearing, they had the minutes and the record and knew you had not seen this. The Council thought the BZA should see this additional information that was not subject to the public hearing process that you conducted. Mr. Austgen stated Ms. Sadler and her attorney are present should the Board want to hear from them, public hearing has been conducted, so record making normally is over with when it gets to this stage. Jeff Bunge asked what actions are they requesting we do this evening. We conducted the public hearing, there are new items that go along with the public hearing that we have not seen that were presented at the Town Council level. Jeremy Kuiper stated he thinks this should be readvertised. Jerry Wilkening stated the new information does not meet the old information. Just the fence in the front yard would require readvertisement. That would be a Developmental Variance along with the Use Variance. Nick Recupito stated he believes it should be readvertised so surrounding property owners will be made aware of the new request. The Board determined this is a new petition and should be readvertised as a new variance request. Ms. Sadler made the request to be able to occupy the building.
- f) Recommendation to Town Council:

The petitioner and her attorney have withdrawn the petition.

Motion: _____ 2nd: _____

| Nick Recupito | Jerry Wilkening | John Kiepora | Jeff Bunge | Jeremy Kuiper | Vote |
|------------------|--------------------|-----------------|------------|------------------|------|
| | | | | | |

New Business:

1. Padilla - Developmental Variance

Owner/Petitioner: Joseph & Susan Padilla, 10007 W. 128th Ln., Cedar Lake, IN 46303
 Vicinity: 10007 W. 128th Ln., Cedar Lake, IN 46303
 Legal Description: Monastery Woods Phase 1 Lot 3

Tax Key Number(s): 45-15-21-258-005.000-014

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

This Developmental Variance is to allow the Petitioner to install a six ft. (6') wood fence in the front yard of a through lot

- a) Attorney to Review Legals: David Austgen stated the legals are in order and the public hearing may be conducted.
- b) Petitioner's Comments: Joe & Susan Padilla, 10007 W. 128th Ln, Cedar Lake. Would like a fence in what we consider a back yard, but since it is on a street is really a front yard.
- c) Remonstrators: None
- d) Building Department's Comments: Michelle Bakker stated we have no comments, consistent with other variances in the area. Wants to make sure that this would be twenty-five ft. (25') off the property line, in line with neighboring fences. Ms. Padilla stated yes it will line up with neighbors.
- e) Board's Discussion: No Comment

A motion was made by Nick Recupito and seconded by Jerry Wilkening to approve the Developmental Variance to allow the Petitioner to install a six ft. (6') wood fence in the front yard of a through lot twenty-five ft. (25') from the front property line of 129th Avenue and to include the findings of fact.

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

2. Schroeder - Developmental Variance

Owner/Petitioner: Andrew Schroeder, 13438 Cedar St., Cedar Lake, IN 46303
Vicinity: 13438 Cedar St., Cedar Lake, IN 46303
Legal Description: CEDAR POINT PARK L.36
Tax Key Number(s): 45-15-26-151-015.000-043

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title VIII-Residential (R2) Zoning District: Section 4: C: Side Yard: On each lot, except as otherwise specified, there shall be two (2) side yards, each having a width of not less than eight (8) feet; D. Rear Yard: there shall be a rear yard on not less than twenty-five percent (25%) of the depth of the lot

This Developmental Variance is to allow the Petitioner to build a deck with a side yard setback of six ft. (6') and a rear yard setback of thirteen ft. (13')

- a) Attorney to Review Legals: David Austgen stated the legals are in order, a public hearing may be conducted.
- b) Petitioner's Comments: Andrew Schroeder, 13438 Cedar St., Cedar Lake. Is requesting a deck with a side yard of six ft. (6') and rear setback of thirteen ft. (13').
- c) Remonstrators: None

- d) Building Department's Comments: Michelle Bakker stated this is consistent with the neighborhood, these are short lots.
- e) Board's Discussion: Jeremy Kuiper asked if this was consistent with the front of the house. Jerry Wilkening asked if we would be over on lot coverage with this addition. Michelle Bakker stated yes it will be over the twenty-five percent on lot coverage. Allowed to have six hundred and eighty-two sq. ft. (682) and with the deck they will be at nine hundred and forty (940). Discussion ensued on lot coverage and if he would need to reapply and add this to the petition. Jeremy Kuiper and Jeff Bunge explained the issue to Mr. Schroeder. David Austgen stated it would be best to make our record clean and a complete variance and include the coverage variance. He would need to amend the application, renote and readvertise, come back next month. Mr. Schroeder will amend his application and renote.

A motion was made by Jerry Wilkening and seconded by John Kiepura to defer to the November 14, 2019 Public Meeting with an amended application and readvertise with lot coverage.

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

3. 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 east side property line, eight ft. (8') from the house with a lot coverage over twenty-five percent (25%)

- a) Attorney to Review Legals: David Austgen stated the legals are in order, a public hearing may be conducted.
- b) Petitioner's Comments: Jason Walker, 7619 Lake Shore Dr., Cedar Lake. Wants to put up a shed, now has a survey.
- c) Remonstrators: None
- d) Building Department's Comments: Michelle Bakker, stated according to the plat it is two ft. four inches (2.4) from the property line and would need to be moved to the three ft. (3') as requested on the variance.
- e) Board's Discussion: The Board questioned if we need to go with what is stated on the survey. Mr. Walker stated when he measured it, it comes out to three ft. (3'). Michelle Bakker asked if he contacted the surveyor to see if there is a mistake. The shed is in line with the house. Nick Recupito asked where the measurement was taken from, the foundation or fascia board. The

overhang is eight inches (8"). Discussion ensued on the petition and how it was advertised. John Kiepura stated one of the requests we had was that the shed be put in line with the house and this proves it is. He has his survey that the house and the shed are in line regardless of it being measured from the fascia board or foundation. Mr. Kiepura believes this is an acceptable document and proof of what we asked for. Nick Recupito asked if there were any legal hang ups with how it was advertised. David Austgen stated no, as long as it is made clear in the motion. Jeff Bunge expressed concern with fencing and discussion ensued. John Kiepura made a motion to approve the developmental variance as submitted per the survey and the findings of fact. Jeff Bunge questioned no fence in the back, concerns with being able to maintain property. John Kiepura stated there is no request for a fence, if he wants a fence he has to come back before the Board. David Austgen asked if he was entitled to a fence by right? Michelle Bakker stated yes. David Austgen stated it would be a fair term to include. John Kiepura stated a fence has nothing to do with tonight, if he wants a fence he will need to come back to us. Jerry Wilkening stated it shows fence on the survey. Michelle Bakker stated again by law he can have a six ft. (6') fence. John Kiepura stated he withdraws his motion. Jeff Bunge still would like the stipulation of no fence, so he can maintain the property line. Jeremy Kuiper stated he believes what Mr. Bunge is looking for is an approval for the request of the shed contingent that any fencing needs to be presented to the BZA for approval.

A motion was made by Jerry Wilkening and seconded by Nick Recupito to approve the Developmental Variance to have an eleven ft. x twelve ft. (11x12) shed two point two ft. (2'2") from the east side property line eight ft. (8') ft. from the house with lot coverage over twenty-five percent (25%) contingent any future fence come before the BZA for consideration based on the findings of fact.

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

4. Marvick - Developmental Variance

Owner: Natalie Marvick, 1703 W. Anne Ln., Morris, IL 60450
Petitioner: Ryan Truell, 733 Brita Trail, Minooka, IL 60447
Vicinity: 7317 W. 136th Ln., Cedar Lake, IN 46303
Legal Description: THE HICKORY L.63 and THE HICKORY L.64
Tax Key Number(s): 45-15-26-184-015.000-043 and 45-15-26-184-016.000-043

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XXV: Section 8: Lots Non-conforming: D. Recorded Lots less than minimum area: Lots of record at the time of the enactment of this Ordinance, which have less than the minimum area requirements for Residential Zoning Districts may nevertheless be used for any use permitted therein, except that for dwellings, the lot must have a width of at least fifty (50) feet, and an area of at least five thousand (5,000) square feet and Title VIII-Residential (R-2) Zoning District: Section 4: B. Front Yard: 4) On all other streets, a distance of thirty (30) feet; E. Building Coverage: Not more than twenty-five percent (25%) of the area of the lot may be covered by buildings and/or structures; Section 5: Building Size: A. No building shall be erected for residential purposes having a minimum ground floor area of less than one thousand four hundred (1,400) square feet for a one and one-half (1 ½) story house.

This Developmental Variance is to allow the Petitioner to build a new home on a 62'x77' lot, with a front yard setback of fifteen ft. (15'), lot coverage of one thousand four hundred thirty-two sq. ft. (1,432 sq. ft.) and first (1st) floor for a one and one-half (1 ½) story of eight hundred sixteen sq. ft. (816 sq. ft.)

- a) Attorney to Review Legals: David Austgen stated the legals are in order and the public hearing may be conducted.
- b) Petitioner's Comments: Steve and Natalie Marvick, 1703 Anne Ln., Morris, IL 60450; want to build a new home on a small lot.
- c) Remonstrators: None
- d) Building Department's Comments: Michelle Bakker stated she worked with Ryan Truell to get this house as close to meeting our ordinance as possible. Consistent with neighborhood. In our ordinance for a two-story (2) home the minimum foundation footprint is eight hundred sq. ft. (800), because of the roof it had to be considered a one and one half (1 ½).
- e) Board's Discussion: The Board discussed if they would have any sheds or pools on the property. The petitioner stated no, unless they do not get approved for the garage. Jeff Bunge stated this is a nice fit for an impossible lot.

A motion was made by Nick Recupito and seconded by Jerry Wilkening to approve the Developmental Variance as presented and to include the findings of fact.

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

5. Ravens - Developmental Variance

Owner/Petitioner: Rory Ravens, 12528 Wicker Ave., Cedar Lake, IN 46303
Vicinity: 12528 Wicker Ave., Cedar Lake, IN 46303
Legal Description: COFHEN BUSINESS PARK
Tax Key Number(s): 45-15-20-227-001.000-014

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XIV-General Business (B-3) Zoning District: Section 5: C. Side Yard: 2) On a lot abutting any Residential Zoning District there shall be a side yard abutting such Zoning District having a width of not less than fifteen (15) ft., which shall be effectively screened from abutting lots by a strip of planting not less than fifteen (15) feet in ultimate width, such planting consisting of not less than fifty (50%) percent evergreen material scattered throughout.

This Developmental Variance is to allow the Petitioner to place a walk in cooler two ft. (2') off the side property line

- a) Attorney to Review Legals: David Austgen stated the legals are in order and a public hearing may be conducted.
- b) Petitioner's Comments: Rory Ravens, Cedar Lake, IN. Want to put a walk in cooler approximately six ft. (6') from the property line. This is not permanent and can be moved. Will attach to the building to keep varmints out.
- c) Remonstrators: Sladjana Keric, 9710 W. 99th Ct., St. John, IN. Owns the property to the south. Wanted clarification on what was going in next door. Was curious if there were any easements.

- d) Building Department's Comments: Michelle Bakker stated that when Tim Kubiak did the inspection he was concerned with the NIPSCO boxes that were out there. Was concerned why these would be put there without an easement. Pulled surveys back from 1996 and spoke with the previous owner and there are no easements. We wanted to see this further than two ft. (2') off property line and now with this new survey we are good with the six ft. (6')
- e) Board's Discussion: Jerry Wilkening asked which direction the storm sewer ran and if there was an easement for that and who maintains it. Discussion ensued on location of cooler. There was discussion on noise and lights. Jeff Bunge brought up screening. Mr. Ravens stated he is willing to do whatever the Board suggests. Jerry Wilkening asked about the vacation on 125th. Mr. Ravens will be revisiting that. There is a space issue there. Will be looking at this again or looking for a new piece of property. Mr. Wilkening asked if the storm basins are his and concerns with who maintains the utilities. Mr. Ravens stated he is not sure, he did not put them in. Jerry Wilkening stated he has more questions than answers at this point. Mr. Ravens stated the good thing about the cooler is it is not permanent and the biggest issue would be ripping up some concrete. It is in three to four feet (3-4) sections. David Austgen stated this is the first he has seen the site plan, and it is referenced to being a Planned Unit Development. Some of these answers might be found in the PUD approval. Contract zoning typically leaves some of those items to the property owner. Jerry Wilkening asked if Mr. Ravens would consider a deferral so we can look into this further. Jeremy Kuiper asked if it is part of the PUD and their responsibility how does that change the math or vice a versa the Town. Jerry Wilkening stated this is getting tight in here and now we are going to shove a cooler in here. If it is theirs to maintain then it is theirs, with arborvitae to cover that in full height. Upgrading that whole road way in some lease agreement, not sure that would be necessary. David Austgen stated it is a business property that needs to meet with code. Jeremy Kuiper asked if that needed to be a deferral or a contingency. Michelle Bakker asked David Austgen who would maintain a NIPSCO box that isn't in a utility easement that was platted that way. Mr. Austgen responded with why this is being discussed is because it is an addition to the development on the property so the impact or effect of that is being talked about. Mr. Ravens stated we are busting at the seams and have fifteen to twenty (15 to 20) pallets of product sitting outside rain or shine. The cooler would be fourteen by forty (14x40) and ten (10) foot high. Nick Recupito stated he agrees with Mr. Wilkening and would like to see who maintains these, so it does not cause issues with future property owners. Discussion ensued on what is in the PUD agreement. David Austgen stated there is a PUD plan that is similar to a site plan that should be in our files. This property used to be part of Cedar Gardens. Discussion ensued on the zoning of surrounding properties. If there is an easement it would be on the subdivision plat. If the Town is responsible, Mr. Ravens would have to understand it would have to come down if maintenance is needed. David Austgen stated there should have been a PUD contract, most PUDs in this Town had private party responsibility for the internals, road maintenance, storm drainage, utilities. They were usually seeking other relief in consideration of what they were provided. Mr. Ravens would like to get this going before the weather changes. John Kiepora asked if he would be willing to wait a month so we can get some clarification. Jeremy Kuiper stated if a deferral is in order, what information do we require. Jerry Wilkening stated the details of the PUD and how they effect the petitioners request.

A motion was made by Jerry Wilkening and seconded by John Kiepura to defer to the November 14, 2019 Public Meeting per the Petitioner's request.

Vote: 5-0

Public Comment:

Update Items:

BZA Requirements

Adjournment: Time: 8:49 p.m.

Press Session: Board of Zoning Appeals Meeting – November 14, 2019 at 7:00pm

Nick Recupito

Jeff Bunge, Vice Chairman

Jerry Wilkening

Jeremy Kuiper, Chairman

John Kiepura

Attest: Tammy Bilgri, Recording Secretary

The Town of Cedar Lake is subject to the requirements of the Americans with Disabilities Act of 1990. Individuals with disabilities who plan to attend this meeting and who require certain accommodations in order to allow them to observe and/or participate in this meeting, or who have questions regarding accessibility of the meeting or the facilities, please contact the Town Hall at (219) 374-7400.