



**TOWN OF CEDAR LAKE
BOARD OF ZONING APPEALS
PUBLIC MEETING
MINUTES
March 12, 2020 7:00 P.M.**

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

Pledge to Flag:

Roll Call:

Present Nick Recupito

Absent Jerry Wilkening

Present John Kiepura

Absent Jeremy Kuiper

Present Jeff Bunge

Present David Austgen, Town Attorney

Present Tim Kubiak, Director of Operations

Present Michelle Bakker, Building Administrator

Present Tammy Bilgri, Recording Secretary

Minutes:

A motion was made by Nick Recupito and seconded by John Kiepura to approve the February 13, 2020 Public Meeting Minutes as presented.

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

New Business:

1. Talaga - Developmental Variance

Owner/Petitioner: Talaga Development LLC, 651 South County Line Rd., Hebron, In 46341

Vicinity: 7503 W. 134th Pl., Cedar Lake, IN 46303

Legal Description: RESUB. L. 1 & 2, 69 & 70, 89, 90 & 91, 160, 161, 255 TO 377 & 382 TO 403 OF CEDAR POINT PARK ALL L.1 BL.4

Tax Key Number(s): 45-15-26-132-008.000-043

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title VIII-Residential (R2) Zoning District: Section 4: B. Front Yard: 4) On all other streets, a distance of thirty (30) feet

This Developmental Variance is to allow the Petitioner to build a four ft. x four ft. (4'x4') deck in a front yard fourteen ft. (14') from 134th Place

- a) Attorney to Review Legals: David Austgen stated the legals are in order and a Public Hearing may be conducted.
- b) Petitioner's Comments: Scott Talaga, 651 South County Line Rd., Hebron, IN 46341. Would like to add a front door to the existing building to the main level. It currently has one in the basement and we would like to make it so you can access the main level of the house. Would like to add a small landing to give access to the main level without going through the basement. There is a fourteen ft. (14') setback from the road.
- c) Remonstrators: Bill Sechen, 7506 W. 134th Pl., Cedar Lake, IN. Glad it is being remodeled, concerns with a place people would congregate outside.

Currently have issues with neighborhood parties and do not want to list to this. Tim Kubiak stated this is only a four ft. x four ft. (4'x4') deck.

- d) Building Department's Comments: Tim Kubiak no issue, a front door to a house with no other door to access to the main floor a four x four (4'x4') deck with stairs that is more of an egress than a patio. Setback is very consistent with the neighborhood.
- e) Board's Discussion: Jeff Bunge asked if they had parking off the street. Tim Kubiak stated they have two (2) spots. John Kiepura asked if this was a remodel that was going to be flipped. The petitioner stated yes. Jeff Bunge stated any approvals would have to be an unanimous vote since we are missing two (2) Board Members. Nick Recupito asked what the deck would be constructed of. Mr. Talaga stated cedar. Nick Recupito does not see any issues with this, thinks it is a good idea.

A motion was made by Nick Recupito and seconded by John Kiepura 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	Absent	Yes	Yes	Absent	3-0

2. Daley – Special Use Variance

Owner: Cedar Lake Commercial, 9700 Industrial Dr., Cedar Lake, IN 46303
 Petitioner: Richard Daley, 12841 Wicker Ave., Cedar Lake, IN 46303
 Vicinity: 12841 Wicker Ave., Cedar Lake, IN 46303
 Legal Description: SW.1/4 SW.1/4 NW.1/4 S.21 T.34 R.9 (120x346.17ft) 0.95Ac
 Tax Key Number(s): 45-15-21-151-031.000-014

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

This Special Use Variance is to allow the Petitioner to operate Auto Exchange a used auto dealer a B-3 use in a B-2 Zoning District

- a) Attorney to Review Legals: David Austgen stated the legals are in order and the public hearing may be conducted.
- b) Petitioner's Comments: None
- c) Remonstrators: None
- d) Building Department's Comments: None
- e) Board's Discussion: The Board discussed removing the item or deferring it due to no petitioner present.
- f) Recommendation to Town Council:

A motion was made by John Kiepura and seconded by Nick Recupito to defer to the April 9, 2020 Public Meeting.

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

3. Larson – Special Use Variance

Owner: James C. Thorn Sr. & Pamela J. Thorn, 16320 Fulton Pl., Lowell, IN 46356

Petitioner: Jeremy A. Larson dba Full Service Garage LLC, 7412 W. 127th Place,
Cedar Lake, IN 46303
Vicinity: 14101 Lauerman St., Cedar Lake, IN 46303
Legal Description: Noble Oaks Park BL.2 Lots 1 to 4 & BL.3 Lots 1,2,3 & Pt. of Vac. Noble
Oaks Blvd.
Tax Key Number(s): 45-15-34-205-001.000-014
Request: Petitioner is requesting a Special Use Variance from Zoning Ordinance
No. 496, Title XII-Neighborhood Business (B-1) Zoning District

***This Special Use Variance is to allow the Petitioner to operate Full
Service Garage LLC an automobile repair center a B-3 use in a B-1
Zoning District***

- a) Attorney to Review Legals: David Austgen stated the legals are in order and the public hearing may be conducted, there is a letter request for deferral from the Jim Wieser, attorney for the Petitioner.
- b) Petitioner's Comments: None
- c) Remonstrators: August Poppe, 8711 W. 141st, Cedar Lake, IN 46303. Concerned with hours of operation, current paint booth and if it is up to 2020 standards. Does not want to smell paint fumes. Thinks this building has a used oil burning furnace. I bought the house knowing there was a repair shop next door, just concerned with the fumes while playing outdoors with children. Mike Bieber, 14109 Lauerman, Cedar Lake, IN 46303. What is the difference with what he wants to do than what is currently there now. Is it because he is a new owner? David Austgen stated this is a B-1 Zoning District that has been the subject of court proceedings that have identified the B-3 is not an acceptable use. That the use that had been there previously, two (2) decades of history, was not proper and the change of use to make this legal is why he is coming here. So he can do the things that are not permitted in a B-1 Zoning District. Mr. Bieber expressed concern with past history of this property and does not want this to happen again.
- d) Building Department's Comments: Tim Kubiak stated we did meet with the petitioner and he has the intents of cleaning up the building. Just mechanical, no painting or body shop. They will be given strict guidelines on how many cars they can have and parking spaces. Mr. Austgen stated we are aware of how this property impacts the neighborhood.
- e) Board's Discussion: None
- f) Recommendation To Town Council:

A motion was made by Nick Recupito and seconded by John Kiepora to defer to the April 9, 2020 Public Meeting per the petitioners request.

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

4. Cedar Lake Ministries – Use Variance

Owner/Petitioner: Cedar Lake Ministries, Inc., 13701 Lauerman St., PO Box 665, Cedar
Lake, IN 46303
Vicinity: 8816 W. 137th Ave., Cedar Lake, IN 46303
Legal Description: Pt. of NW.1/4 S.27 T.34 R.9 Ly'ng E. of RR 32.588Ac
Tax Key Number(s): 45-15-27-176-001.000-014

Request: Petitioner is requesting a Use Variance from Zoning Ordinance No. 496, Title XI-Planned Unit Development (PUD) Zoning District

This Use Variance is to allow the Petitioner to place a zip line/ropes activity center on the vacant parcel

- a) Attorney to Review Legals: David Austgen stated the legals are in order contingent the green cards being checked.
- b) Petitioner's Comments: John Terpstra, Attorney for Cedar Lake Ministries. The petition is a variance from the permitted use of the property to allow for the placement of a zip line and ropes activity course on the vacant parcel. The zip line consists of one (1) tower structure, two (2) independent poles and two (2) independent cables for the lines. The ropes course consists of a single tower with high posts and ropes. Dimensions for the zip line include a height of thirty to thirty-four ft. (30 to 34') in line with the height of a single family residence in Cedar Lake. It is twelve ft. (12') wide and five hundred forty-one ft. (541') long for the line. The ropes course will be thirty to thirty-four ft. (30-34') in height and cover an area of one hundred thirty-eight ft. (138') wide and seventy-five ft. (75') deep. Safety features on each tower include locking entry doors, the zip line and ropes course are not accessible from the exterior side of the tower structures, there is a locking door. Each tower will be used only by camps or youth groups that signed up for the event. They will not be open to the general public. They are adjoined on the north and east by wooded undeveloped property and on the south by open undeveloped property, to the west it is adjoined by an area of eighty-five ft. (85') before we get to the railroad right of way and another one hundred ft. (100') to the nearest home. Asking for a favorable recommendation for this use variance to the council, this will not be injurious to the public health, safety, morals and general welfare of the community. This promotes healthful activity. The use and value of the adjacent properties will not be affected in a substantially adverse manner. Will not create a nuisance. The need for the variance arises from uncertainty in its designated and allowable use. This is Cedar Lake Ministries fourth (4th) variance related to the property, but want to assure the Board we are attempting to clean it up, through a specific model to maybe resubdividing and create a new PUD or determine whether this was included in the original PUD. Disallowing the opportunity to construct and enjoy this course on grounds intended to serve youth causes an unnecessary hardship and prevents it from providing state of the art facilities to attract families to the Ministry grounds. There exists no evidence that a favorable recommendation from this Board will get Council to approve the variance. This will not interfere with the comprehensive master plan of the Town of Cedar Lake. Would encourage you and give a unanimous favorable recommendation to the Town Council to approve.
- c) Remonstrators: Larry Spender, 13701 Lauerman, #65, Cedar Lake, IN 46303. Presently have a house there and would love to see more activities for the kids.
- d) Building Department's Comments: Tim Kubiak stated we have talked about it at the Plan Commission and are working on getting the PUD done by the end of the year. The Plan Commission offered if they had the PUD done by January 2021, want to use this for recreation and that is what the property has been used for in the past. Making the PUD contingent any recommendation.
- e) Board's Discussion: John Kiepura asked if we need to address PUD here or in the Plan Commission. David Austgen stated you can do it in both places, here you can do it that you do not have a lot of record, a PUD and a Zoning

District would provide you a lot of record that would make this a permit able use versus not. The zoning district classification checked off in our dialogue last time that there is no identifiable inclusion of this parcel in the PUD that exists, that it is excluded. That puts you in a no mans land of land use activity under your code. Would like to hear what they plan to do to clean it up after the fact. John Terpstra stated we need to determine whether or not this west parcel was included in the original PUD that has been created, if that is the case then we may resubdivide and create a separate PUD for the Ministry grounds from the residence grounds. Instead of asking permission to do new things, we will be able to revert back to what the Town may have docked into its ordinance as a separate PUD for the ministry grounds and say does this fit into the box of uses, we can check it off. It will allows us a lot more freedom and predictability. The western portion needs to be held to conferences, activities, and campground, the eastern portion to residences. Michelle Bakker stated that even if it was part of the original PUD in 1991 and 1993 when it was redone four (4) years ago it was taken out. So no matter what it needs to be a Lot of Record, PUD with guideline restrictions and covenants. David Austgen stated this is contract zoning, at the end of the day when this PUD is figured out, there will be a PUD agreement and we will know exactly what is allowed, the Building Department will know how to issue permits and we will know how to enforce. John Kiepora stated he would like to see this cleaned up. Nick Recupito is concerned with the order this is happening. Mr. Terpstra stated because we have an immediate need to build this on the campground and it is all part of the ultimate goal. As mentioned at the Plan Commission we are conceding that this can be a recommendation to the Town Council for a temporary approval that would expire in January of 2021. So if we don't get the job done on the PUD side then this special use expires. Nick Recupito asked how this would play out with us, all this gets built then the PUD does not come about. David Austgen stated then the approval for the permitted use terminates and they remove the zip line. Discussion ensued on the past variances Cedar Lake Ministries has come to the Board for. Nick Recupito believes they had plenty of time to get the PUD in order before coming to this Board. Mr. Terpstra stated the need for the PUD came to light after numerous discussions. Working closely with DVG to get things done. Discussion ensued on their petition to the Plan Commission. Bret (last name inaudible), Executive Director, Cedar Lake Ministries stated the residents have been notified about the plans. Sansui Matawa discussed Nick Recupito's concerns about the previous variance requests. David Austgen stated a single use is not accurate, there are other uses on that property. This is a single additional use to the subject property. That is why the PUD must be made right. John Kiepora stated if we do a short term single use here for the zip line, it will come to an end on whatever date we pick and in the interim if they come up with a new PUD then that use would automatically come to play under the new PUD. David Austgen stated it would be integrated into the new PUD as a permitted use. Jack Huls stated they are asking for this approval tonight because the PUD approval will take ninety (90) days, that would preclude this ropes course from being put in this year. Nick Recupito stated this is not a hardship we created, it is in the minutes from January 2019 that you needed a PUD, now you are coming to us to fix a problem we did not create. We are here to determine whether something is a good fit, but until it goes to the Plan Commission and you present a list of uses you are purposing, how are we supposed to determine this is a good use. Feels like missing a lot of information. Mr. Matawa stated there were issues with the fence regarding how far we needed to be off the street, that is why we withdrew that petition not because of the PUD. Jeff Bunge asked what other

kind of uses are they planning? Mr. Terpstra stated nothing is set in stone at this point. Conceding to a temporary approval of this use means that if we come back with a PUD and this PUD is denied with respect to specific uses including the zip line and ropes course, that goes away. We are only asking for this to be approved for a specific amount of time in order to complete the PUD. These grounds have been used for youth camps, soccer fields, with general use activities, all along the line of conferencing for adults, campgrounds and all youth activities. This will all be made part of the PUD. Bob Carnahan, on the Town Council and Plan Commission and my understanding at the Plan Commission that there were a couple ordinances 9193 and asked the question was it recorded PUD and I was told no. What they are asking is if they can put this zip line in and then work on preparing the PUD and making sure it gets recorded. So this is a temporary activity that would expire in January 2021 and if that PUD was not in place at that time it would have to come down. This is just to give them the opportunity to operate that activity. What happened, why we didn't get the PUD recorded from the two (2) ordinances I don't know. Tim Kubiak stated this is basically to allow the zip line to be there this summer and if it is not recorded it will be taken down. Nick Recupito stated if this got rolling sooner, they could have handled all of this with the Plan Commission and we would not be involved at all? Mr. Austgen stated yes this could have been part of the development agreement. Mr. Terpstra stated this is the best way he knows to handle this at this time. There is no standard use for this property and are dedicated to clean up and make right. The hardship does exist for them to operate this summer and put all the right pieces into place. David Austgen wanted to make record of the PUD ordinances, it is not a mandate. In fact the Town Council adopted ordinances signed them had them attested by your Clerk and they are on file, is sufficient. So what is contained within your legislative act did not need to be recorded to be effective. With having drafting it, I can tell you it pertains significantly to getting an organization of the Conference Grounds for parcel resident cottage identification and for the billing component to the Town's waste water utilities for the billing that occurred once the Conference Ground community came under your sanitary sewer system. What we don't have is identification that the parcel they are talking about is in the PUD. Bob Carnahan stated they want to take everything we have given them in the past and get everything tied together with the new PUD and present it to the Plan Commission. Discussion continued on the amount of work to be done. The Petitioner requested a deferral to be able to bring back more information to the Board.

f) Recommendation To Town Council:

A motion was made by John Kieपुरa and seconded by Nick Recupito to defer to the April 9, 2020 Public Meeting per the petitioners request.

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

Public Comment: None

Adjournment: Time: 8:31 p.m.

Press Session: Board of Zoning Appeals Meeting – April 9, 2020 at 7:00 p.m.

Nick Recupito

Jeff Bunge, Vice Chairman

Jerry Wilkening

Jeremy Kuiper, Chairman

John Kiepura

Attest: Tammy Bilgri, Recording Secretary

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