



**TOWN OF CEDAR LAKE
BOARD OF ZONING APPEALS
PUBLIC MEETING
March 11, 2021 7:00 P.M.**

Jeremy Kuiper, Chairman
John Kiepura, Member
Jeff Bunge, Vice President
Jerry Wilkening, Member
Nick Recupito, Member

David Austgen, Town Attorney
Jill Murr, Planning Director
Tim Kubiak, Director of Operations
Rick Eberly, Town Manager
Teri Knowles, Recording Secretary

CALL TO ORDER:

Jeremy Kuiper called the meeting to order at 7 pm, on Thursday, March 11, 2021, with its members attending on site and led all in the Pledge of Allegiance.

ROLL CALL:

Members present: Jeremy Kuiper, John Kiepura, Jeff Bunge, Jerry Wilkening, Nick Recupito.

Also, present: David Austgen, Jill Murr, Rick Eberly, and Teri Knowles.

Members absent: Tim Kubiak, it was noted that Mr. Kubiak's attendance is not required.

MINUTES:

On a motion made by Jeff Bunge to defer the February 11, 2021 Public Meeting Minutes, and seconded by John Kiepura. Motion carried unanimously by roll-call vote:

Nick Recupito	AYE
Jerry Wilkening	AYE
John Kiepura	AYE
Jeff Bunge	AYE
Jeremy Kuiper	AYE

NEW BUSINESS:

1. Montalvo – Developmental Variance

Owner/Petitioner: Manuel & Tracy Montalvo, 14337 Morse St., Cedar Lake, IN 46303

Vicinity: 14337 Morse St., Cedar Lake, IN 46303

Legal Description: Shades Add Cedar Lake Plat C Blk 1 Lots 16,17,18,19,20

Tax Key Number(s): 45-15-35-251-013.000-043

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XXI-Fence Regulations: Section 1: A. 1) No fence shall be located in the front yard; E. 1. A fence located on a through lot not served by sidewalks that has been designated as a rear yard shall be set back a minimum of six feet (6') from the right of way line and shall not exceed a height of four feet (4')

This Developmental Variance is to allow the Petitioner to build a six ft. (6') privacy fence in the front yard on a through lot with an unimproved street.

Attorney Review of Legals: Attorney Austgen stated legals are in order.

Petitioner's Comments: Mr. Montalvo requested to build a 6 ft privacy fence in front yard.

Remonstrators: Mrs. Rose Schultz of 14339 Morse St. indicated that they park on an unimproved roadway. Doesn't want a privacy fence because it will block her front yard view. She wants the town to put in a roadway for her or give back the parcel that was gifted to the Town. She has Attorney Eric Neff representing her.

Attorney Austgen stated that the Town received the property from the Commissioner's process of conveyance to municipalities. The Town Council was presented this item and it is his recollection that they have checked off on this, but he would need to check his file to confirm. His recommendation would be that the Town divest its ownership of the parcel. This parcel had been owned by the family for a long time; this happened through the misfortune of not paying the taxes. Jill Murr and Mrs. Schultz referenced the GIS map displayed for the parcel discussed and referred to as Lot 21.

Jeremy Kuiper read the letters from Attorney Eric Neff into the record. One letter addressed to the Board of Zoning Appeals and one addressed to Attorney David Austgen. A copy of both letters incorporated at the end of the minutes.

Tim VanBaren of 3907 Laque Dr., went over the lots and what could work for the road to go through. He asked if the roadway could just run to the easement towards the back and could it be good for all to access? Attorney Austgen replied that it would need to be addressed by the Town Council as it is not this Board's jurisdiction.

There were no comments submitted electronically. The public portion of the item was closed.

Building Department's Comments: Jill Murr explained that the lot backs up to an unimproved platted roadway, Cedarville Terrace, currently utilized as a driveway for the residents behind them.

Board's Discussion: Jeremy Kuiper, Attorney Austgen, and the Board went over the proposed fence and what is being requested. They reviewed the petitioners parcel, lot 21, platted unimproved roadway, any plans in future to improve the road, and driveway running through the corner of the petitioner's property. The gravel drive is not really the issue of the Petitioner.

Rick Eberly reported that there are no plans for the Cedarville Terrace roadway improvements. He explained how the Schultz's access their parcels referencing the GIS map displayed. He explained the fencing setback requirements; privacy fence can be 6ft but has to be 50% see-through. Petitioner is requesting Variance on the setback of the 6ft off the back of his lot, 4ft fencing is allowed and 6ft with 50% open to allow increased visibility.

Nick Recupito indicated the only item that should be requested and decided on was the privacy fence with the footage.

Board's Decision: On a motion made by Nick Recupito and seconded by Jerry Wilkening to approve the Developmental Variance to allow the Petitioner, Mr. Montalvo, to build a 6' Cedar privacy fence in the front yard, on a through lot of an unimproved street, with a 0' setback on Cedarville Terrace, a two (2) week notice to the Schultz family before the fence is built so they can make provisions for driveway access and to include the Findings of Fact:

- 1) The approval will not be injurious to the public health, safety, morals and general welfare of the community;
- 2) The use and value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner; and
- 3) 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 carried 3 ayes to 2 nays by roll call vote:

Nick Recupito	AYE
Jerry Wilkening	AYE
John Kiepora	AYE
Jeff Bunge	NAY
Jeremy Kuiper	NAY

2. Stanley – Developmental Variance

Owner/Petitioner: George Paul Stanley, Jr., 8508 W. 140th Ave., Cedar Lake, IN 46303
Vicinity: 8508 W. 140th Ave., Cedar Lake, IN 46303
Legal Description: SHAWS CEDAR LAKE SUB. LOTS 13, 14, 15 & 16 BL 1
Tax Key Number(s): 45-15-27-460-020.000-014

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title VIII-Residential (R-2) Zoning District: Section 1: B. Front Yard: 4) On all other streets, a distance of thirty (30) Feet and Title XXIV-Swimming Pool: Section 3: Location: No portion of an outdoor swimming pool shall be located at any other location where a "structure" is prohibited.

This Developmental Variance is to allow the Petitioner to build a deck and swimming pool in the front yard sixty-two ft. (62') from 140th Avenue

Attorney to Review Legals: Attorney Austgen indicated Legals are in order.

Petitioner's Comments: Paul Stanley is requesting to put a pool and deck in his front yard stating it is his only yard. He provided the dimensions of the lot and will be putting PVC fencing around the top of the pool.

Remonstrators: None. There were no comments submitted electronically. The public portion of the item was closed.

Building Department's Comments: Jill Murr stated the parcel meets the setback requirements except it being in the front yard. The parcel is accessed by an alleyway.

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Board's Discussion: Rick Eberly explains that the Ordinance didn't say that a pool could not be in the front yard. It's intended to be in the backyard; not that it had to be.

Board's Decision: Motion by Jerry Wilkening and seconded by Nick Recupito to approve the Developmental Variance to allow the petitioner to build a deck and swimming pool in the front yard sixty-two feet (62' feet) from 140th Avenue as presented and to include the Findings of Fact:

- 1) The approval will not be injurious to the public health, safety, morals and general welfare of the community;
- 2) The use and value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner; and
- 3) 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 carried unanimously by roll-call vote:

Nick Recupito	AYE
Jerry Wilkening	AYE
John Kiepura	AYE
Jeff Bunge	AYE
Jeremy Kuiper	AYE

3. Young – Developmental Variance

Owner/Petitioner: Bruce Young, 12816 Lee Ct., Cedar Lake, IN 46303

Vicinity: 13028 Edison St., Cedar Lake, IN 46303

Legal Description: Shades Add. Cedar Lake Plat BA BL.4 Lots 11,12 & 13 Ex. S.5ft of Lot 13

Tax Key Number(s): 45-15-23-451-035.000-043

Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title VIII-Residential (R-2) Zoning District: Section 1: B. Front Yard: 4) On all other streets, a distance of thirty (30) Feet; D. Rear Yard: there shall be a rear yard on not less than twenty-five percent (25%); E. Building Coverage: Not more than twenty-five percent (25%) of the area of the lot may be covered by buildings and/or structures

The Developmental Variance is to allow the Petitioner to build a new house with a front yard setback of twenty-five ft. (25') and a rear yard setback of thirteen ft. (13') with lot coverage over twenty-five percent (25%)

Attorney to Review Legals: Attorney Austgen indicated Legals are in Order.

Petitioner's Comments: Brad Stoppers with Price Point Builders, LLC; Dyer, Indiana, is representing the Petitioner, Bruce Young, the owner. Requesting to build a bi-level home. Claims they have a prospective buyer.

Remonstrators: None. There were no comments submitted electronically. The public portion of the item was closed.

Building Department's Comments: Jill Murr stated the petitioner to build a bi-level house with a front yard setback of 25', the rear yard setback of 13', with lot coverage of over 25% and is located in the Shades area. The GIS map displayed was referenced for location.

Board's Discussion: Jerry Wilkening asked about lot coverage. Rick Eberly responded that he didn't believe they needed a lot coverage Variance, based on the building footage even with both

open decks that will be built in the back. If the decks were enclosed, they would have. Lot coverage with the decks 2,110 sq ft. and the lot size is 7,545 sq ft. The house and lot meet coverage. Mr. Recupito asked the petitioner why is it that they cannot meet the Zoning Ordinance for the build with the medium lot size we normally work is 6,000 sq ft and the one being built is 7,500 sq ft. The Petitioner, Brad Stoppers identified that the potential buyer wanted more house with a lesser lot. Discussions continued on lot coverage and setbacks.

Board's Decision: Motion by Nick Recupito and seconded by Jerry Wilkening to deny the Developmental Variance as presented to allow the Petitioner to build a new house with a front yard setback of 25ft and rear yard setback of 15ft, with lot coverage of 25% based on no demonstration of hardship, and to include the Findings of Fact:

- 1) The approval will not be injurious to the public health, safety, morals and general welfare of the community;
- 2) The use and value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner; and
- 3) The strict application of the terms of the Zoning Ordinance, as amended from time to time, *will not* result in practical difficulties in the use of the property.

Motion carried 4 ayes to 1 nay by roll call vote:

Nick Recupito	AYE
Jerry Wilkening	AYE
John Kiepura	NAY
Jeff Bunge	AYE
Jeremy Kuiper	AYE

4. Feege – Special Use Variance

Owner/Petitioner: Michael Feege, 13934 Pickett Way, Cedar Lake, IN 46303

Vicinity: 13934 Pickett Way, Cedar Lake, IN 46303

Legal Description: Centennial Sub. Phase 9 Lot 152 Ex. SE'ly 63.50ft.

Tax Key Number(s): 45-15-28-456-007.000-014

Request: Petitioner is requesting a Use Variance from Zoning Ordinance No. 496, Title VIII-Residential (R-2) Zoning District.

The Use Variance is to allow the Petitioner to operate a home-based FFL (Federal Firearms License) to allow the transfer of firearms to individuals and minor gunsmithing work

Attorney to Review Legals: Attorney Austgen stated Legals are in Order.

Petitioner's Comments: Michael Feege is applying for Special Use Variance to start a home base FFL (Federal Firearms License). His business claim is a small gunsmithing work. The majority will be internet sales. All work will be conducted out of the workshop area of the garage. Any transfers will be secured in the area until the person can take receipt of the firearm. There will be no signage. Parking can be the use in the driveway with not having many onsite customers. Hours will be primarily on the weekends or by appointment only. Michael Feege is in the process

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of getting his approved license of his FFL. He needs something submitted to state that he is establishing the business and is zoned accordingly. A letter submitted by the Building Department.

Remonstrators: None

There were no comments submitted electronically. The public portion of the item was closed.

Board's Discussion: Rick Eberly informed the board that the Ordinance does allow home occupation and there are few restrictions to it. Rick Eberly feels what the Petitioner is proposing complies with the language of the Ordinance. Jerry Wilkening questioned the procedure of firearms. Michael Feege stated he performs the background check and he acts as a transfer agent with no wholesale or resale.

Michael Feege indicated that the neighbors know and have had no negative response with having the business there at the residence.

Nick Recupito commented that if it were to be given favorable recommendation, feels this one would be a good one to have a follow up in 3 to 6 months and check to see if it is working well for the neighbors and how it's going.

Board's Recommendation to Town Council: Motion by Nick Recupito and seconded by Jerry Wilkening to send a Favorable Recommendation for the Special Use Variance:

- A. Allowing the Petitioner to operate a home-based business of a Federal Firearms License (FFL), to allow the transfer of firearms to individuals, and minor gunsmithing work, and
- B. To include the business plan of the Petitioner as presented; and
- C. Petitioner to return to the Board of Zoning Appeals September 9, 2021 meeting to provide an update report; and
- D. To require a letter from the Centennial Homeowners Association stating there is no issue with this request, and
- E. To include the Findings of Fact:
 - 1. The establishment, maintenance or operation of the Special Use will not be detrimental to or endanger the public health, safety, comfort, morals or general welfare, and is in accordance with the Comprehensive Master Plan or the Town;
 - 2. The Special Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted nor substantially diminish and impair property values within the community;
 - 3. The establishment of the Special Use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the Zoning District;
 - 4. The Special Exception or Special Use shall be required to comply with reasonable time limitations on commencement and duration of Special Use, as well as holder of rights to Special Use;
 - 5. Adequate utilities, access roads, drainage and/or other necessary facilities will be provided;

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6. Adequate measures will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets;
7. The Special Use shall in all other respects conform to the applicable regulations of the Zoning District in which it is located and the Board of Zoning Appeals and Town Council finds that there is a public necessity for the Special Use.

Motion carried unanimously by roll-call vote:

Nick Recupito	AYE
Jerry Wilkening	AYE
John Kiepora	AYE
Jeff Bunge	AYE
Jeremy Kuiper	AYE

*Jerry Wilkening left the meeting at approximately 8:30 pm.

5. Henn – Developmental Variance & Use Variance

Owner: Rob Henn, 13733 Wicker Ave., Cedar Lake, IN 46303
Petitioner: Russ Pozen, 1155 Troutwine Road, Crown Point, IN 46307
Vicinity: 13212 Wicker Ave., Cedar Lake, IN 46303
Legal Description: N. 65FT. OF S. 625FT. OF E. 200 FT. OF SE SE S.20 T.34 R.9 .295A and N.65FT OF E.E.290FT OF S.560FT OF SE1/4 SE1/4 SE1/4 S.20 T.34 R.9 0.433 AC and W.90FT OF E.290FT OF N.130FT OF S.690FT OF SE SE S.20 T.34 R.9 .207AC. SUBJ TO EASEMENT
Tax Key Number(s): 45-15-20-480-020.000-014 and 45-15-20-480-021.000-014 and 45-15-20-480-009.000-014

Request: Petitioner is requesting a Use Variance to allow the Petitioner to operate three (3) businesses on a lot in a B-2 Zoning District and a Developmental Variance from Zoning Ordinance No. 496, Title XIII-Community Business (B-2): Section 5: B. Front Yard: Each lot shall front on a dedicated and improved street. There shall be a front yard between the building line and the highway line and the highway or street right-of-way lines as follows: 1) On existing four (4) lane Federal or State highways a distance of sixty (60) feet.

The Use Variance is to allow the Petitioner to operate three (3) businesses on a lot in a B-2 Zoning.

Attorney to Review Legals: Attorney Austgen Indicated Legal are in Order for both items.

Petitioner's Comments: Russ Pozen presented the Developmental Variance. The building, old Gard's Laundromat, is currently within front yard setback. The development plan is to gut the building, beautifying and repurposing into retail development. The Developmental Variance is also for parking and a monument sign within the front yard setback. The plan will not be injurious or adversely affect others. The building has been there for a long time and has always been in the front yard setback. Other developments nearby including Harry O's has parking in the front yard. Retail development requires twenty-eight (28) parking spaces and the site plan proposed has thirty-two (32) parking spaces. Monument sign is proposed in the Southeast corner.

Mr. Pozen presented the Use Variance. They are repurposing and beautifying the building, the old Gard Laundromat, into a retail development. The Ordinance only allows one business on a lot; to make it marketable, they are requesting three (3) users. The building will have a building permit for it. There is no drive thru or drive-up windows.

Building Department's Comments: Jill Murr reported that by repairing and making it conforming by requesting the variances for the front yard setback, the building, the parking and the monument sign at the southeast corner, and operating the three (3) businesses within the one lot in the B-2 Zoning district. Russ Pozen has coordinated with INDOT on the widening project and their project

will not require an additional right of way. Jill Murr updated the Board on the INDOT project. INDOT will be widening RT 41 and bringing in a center two-way turning lane. However, there will not be a left-hand turn if heading Northbound to access the parcel, access would be from 132nd. Russ Pozen noted that separate from this BZA, subdivision and site plan approval are being sought and will include ingress and egress to Harry O's parcel. This project is within the TIF district.

Board's Discussion: Jeff Bunge noticed the change of angle parking to parallel on the Northside of the property. Russ Pozen explained that it is currently nonconforming and forces the drive to be more of a one-way. This cleans up the sight. The sign is currently not electronic. Jill Murr noted that the proposed sign meets our signage requirements. John Kiepura reported that parking was discussed at the Plan Commission as well.

Remonstrators for the Use Variance and Developmental Variance: Matt Kuiken at 11227 W 132nd Ave., resides on the westside of the business. He wanted the petitioner aware that the Gards' use to own his home and rented it out. They had a water line that ran to the house from the business, and the line is still attached to his foundation. He wanted the developer to be aware.

There were no comments submitted electronically. The public portion of both items was closed.

Board's Recommendation to Town Council: A Motion was made by John Kiepura and seconded by Jeff Bunge to send a Favorable Recommendation to the Town Council for the Use Variance requested contingent upon:

- A. Allowing three (3) businesses on a lot in a B-2 Zoning District; and
- B. Approval of the Developmental Variance by the Board of Zoning Appeals; and
- C. Approval of the Use Variance by the Town Council; and
- D. Approval of the Subdivision Plat by the Plan Commission; and
- E. To include the Findings of Fact:
 1. The approval will not be injurious to the public health, safety, morals and general welfare of the community; and
 2. The use and value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner; and
 3. The need for the Variance arises from some condition peculiar to the property involved; and
 4. The strict application of the terms of the Zoning Ordinance, as amended from time to time, will constitute an unnecessary hardship if applied to the property for which the Variance is sought; and
 5. The approval does not interfere substantially with the Comprehensive Master Plan of the Town.

Motion carried unanimously by roll-call vote:

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

The Developmental Variance is to allow the Petitioner to have a monument sign, building and parking within the front yard setback.

Board's Decision: Motion by John Kiepura and seconded by Nick Recupito to allow the Petitioner to have a monumental sign, building, and parking within the front yard setback contingent upon Plan Commission approval, Town Council approval, and Board of Zoning Appeals approval to include the Findings of Fact:

- 1) The approval will not be injurious to the public health, safety, morals and general welfare of the community;
- 2) The use and value of the area adjacent to the property included in the Variance will not be affected in a substantially adverse manner; and
- 3) 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 carried unanimously by roll-call vote:

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

Public Comment: None

Adjournment: Motion to Adjourn by Nick Kiepura seconded by Jeff Bunge. Meeting adjourned at 8:55pm.

Next Meeting: Board of Zoning Appeals Meeting – April 8, 2021 at 7:00pm.

Jeremy Kuiper, Chairman

Jeff Bunge, Vice Chairman

Nick Recupito, Member

Jerry Wilkening, Member

John Kiepora, Member

Attest: Teri Knowles, 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.