



**TOWN OF CEDAR LAKE
BOARD OF ZONING APPEALS
PUBLIC MEETING
April 8, 2021 7:00 P.M.**

Call to Order (Time): 7:00 pm.

Pledge to Flag:

Roll Call: Members present: Nick Recupito, John Kiepura, and Jeff Bunge Absent: Jerry Wilkening and Jeremy Kuiper. Others present: Rick Eberly, Town Manager (electronically), Jill Murr, Planning Director, David Austgen, Town Attorney and Teri Knowles, Recording Secretary.

Minutes:

Motion by John Kiepura and second by Nick Recupito February 11, 2021 and March 11, 2021 Public Meeting

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

New Business:

1. Machalk – Variance of Use

Owner/Petitioner: Douglas G. Machalk, 7105 W. 133rd Pl., Cedar Lake, IN 46303
Vicinity: 7105 W. 133rd Pl., Cedar Lake, IN 46303
Legal Description: Shades Add Plat F Block 1 Lots 1 to 7
Tax Key Number(s): 45-15-26-202-032.000-043

Request: Petitioner is requesting a Variance of Use from Zoning Ordinance No. 496, Title XII-Neighborhood Business B-1 Zoning District; and Title XX-Supplementary Zoning District-Section 9. There shall not be more than one (1) permissible principal use per single lot in any Zoning District

This Variance of Use is to allow the Petitioner to operate a private auto detail shop a B-3 Use in a B-1 Zoning District

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

Petitioner's Comments: Douglas Machalk distributed his business plan and explained his request. He will be detailing less than ten (10) cars per month. His specialty is car show detailing and car dealerships offsite. There will be no signage and is a seasonal business with March to October being busier with no more than ten (10) cars per month; off-season is usually less than five (5) cars per month.

Remonstrators: None. Public Hearing was closed.

Building Department's Comments: The property is zoned B-1 and utilized as a residential home. The variance is for more than one permissible use and the home business requested is not listed as a home business permissible use.

Board's Discussion: The detailing would be done inside, no later than 10 pm and noise would comply with the Town's noise ordinance. There would be no more than one car in the garage and one in the driveway for the business. The average car takes six to eight hours to detail. Product only sold commercially, not sold out of the residence. This would be appointment only and no advertising or signage by the road. This is no different from what a homeowner can do; but this will be done as a business. Jeff Bunge noted for the Petitioner that they are short two members this evening and you would need three affirmative votes on the recommendation to the Town Council for this to proceed. It was noted that the Petitioner could ask for a deferral, because if this was denied you could not come back for a year. Consultation as listed on the business plan was clarified that this is done mobile.

Board's Recommendation to Town Council: Motion by Nick Recupito and seconded by John Kiepura to send a FAVORABLE recommendation to the Town Council to permit the Petitioner to operate a private auto detail shop at 7105 W. 133rd Place as presented with the following contingencies:

- A. There will be no signage; and
- B. There will be no more than two (2) customer vehicles on the property at any given time; and
- C. There will be no work to be done outside; and
- D. There will be no retail sale of any products on-site; and
- E. Hours of operation 8 am to 10 pm Monday through Sunday; and
- F. This variance is for this Petitioner only; and
- G. Based upon the following 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;
 - 3) The need for the Variance arises from some condition peculiar to the property involved;
 - 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.

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

2. Lange – Variance of Use

Owner: Summer Wind Commercial, LLC, 11125 Delaware Pkwy, Crown Point, IN 46349
Petitioner: Ginnie Lange, 5650 W 600 N, Lake Village, IN 46349
Vicinity: 9849 Lincoln Plaza Way, Cedar Lake, IN 46303
Legal Description: Summer Winds Plaza Lot 1
Tax Key Number(s): 45-15-28-227-015.000-014

Request: Petitioner is requesting a Variance of Use from Zoning Ordinance No. 496, Title XI-Planned Unit Development (PUD) Zoning District and Title XX-Supplementary Zoning District-Section 9. There shall not be more than one (1) permissible principal use per single lot in any Zoning District

This Variance of Use is to allow the Petitioner to operate two businesses, Focus Nutrition and Ginnie Lange Photography, on a lot in a PUD Zoning District

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

Petitioner's Comments: Ginnie Lange, of Ginnie Lange photography and Kelly _____ of Focus Nutrition spoke on the petition and described their businesses which are both family focused. They are located between Pop's and Altered Mane. There is an entrance in the front and the rear and will have the same business hours with both businesses customers utilizing the main entrance. The entire unit is 1,964 sq. ft with 577 sq. ft to be utilized in the rear. Nick Recupito inquired of the Town Attorney on the sub-lease; Attorney Austgen noted that we are not primarily concerned with the lease, it is the land use. This would be for these business owner's only. Jeff Bunge inquired on the PUD conditions or agreements. Ginnie Lange anticipates her business to be primarily appointment only. John Kiepura mentioned traffic concerns and parking. Signage will be on the pylon with the building signage being for Focus Nutrition; with Mr. Lambert's approval there could be small vinyl signage in the window for Ginnie Lange Photography.

Remonstrators: None. Public Hearing was closed.

Building Department's Comments: There was a PUD contract for Summer Winds to develop a maximum of twelve (12) business units within the project; it was not contemplated that there would be more than one business per unit. These are allowable use in their PUD contract and Summer Winds Commercial exceeds the parking requirements for their development.

Board's Discussion: Nick Recupito inquired on both uses to be accepted or an additional use. Attorney Austgen construed it as both as they are both codependent upon each other and recommend both. Attorney Austgen commented on the compatible uses in the plaza and end users contemplated. Jeff Bunge noted for the Petitioner as noted for the previous petitioner that you would need a unanimous vote to move forward.

Board's Recommendation to Town Council: Motion by John Kiepura and seconded by Nick Recupito to send a FAVORABLE Recommendation to the Town Council for Variance of Use to:

- A. Allow the Petitioner to operate two (2) business in one unit, Focus Nutrition and Ginnie Lange Photography, on a lot in a P.U.D. Zoning District; and
- B. This approval will stay with the two (2) present tenants only; and

C. Based upon the following 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;
- 3) The need for the Variance arises from some condition peculiar to the property involved;
- 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.

Nick Recupito	Jerry Wilkening	John Kiepura	Jeff Bunge	Jeremy Kuiper	Vote
YES	ABSENT	YES	YES	ABSENT	3-0

3. Board of Zoning Appeals Rules & Regulations

Rick Eberly had provided an email to the BZA on the changes to the BZA Rules and Regulations. The primary changes are that the Petitioner would be responsible for putting their own notices in the newspaper and the notice will only need to be in one (1) newspaper. The Petitioner would be responsible for obtaining the list of adjacent property owners as well as mailing the notices. Town staff currently does some of these for the Petitioner's. Commercial or Industrial properties will require signage on the property for notice. This is a more involved process for the BZA as any changes require a public hearing with the Plan Commission and then a recommendation from the Plan Commission to change the Ordinance.

Nick Recupito had questions on the Use Variance and stay with the property. A Variance is typically granted to a property and not necessarily the petitioner. There are instances where this would be particular to a petitioner. Developmental and Use Variances were discussed. Nick Recupito was references the Zoning Ordinance amendments to Title XXX presented at the last meeting. Attorney Austgen plans to provide comment on this.

Public Comment: None.

Adjournment: 7:50 pm

Town of Cedar Lake
Lake County, Indiana
Board of Zoning Appeals

Jeremy Kuiper, Chairman

Jeff Bunge, Vice Chairman

Nick Recupito, Member

Jerry Wilkening, Member

John Kiepura, Member

Attest: Teri Knowles, Recording Secretary