



CEDAR LAKE BOARD OF ZONING APPEALS DRAFT MINUTES
CEDAR LAKE TOWN HALL, 7408 CONSTITUTION AVENUE, CEDAR LAKE, INDIANA
June 10, 2021, at 7:00 pm

CALL TO ORDER:

Mr. Nick Recupito called the Board of Zoning Appeals to order at 7:01 pm., on Thursday, June 10, 2021, with its Members attending on-site. The Pledge of Allegiance was recited by all.

ROLL CALL:

Members present: Ray Jackson (late arrival at 7:43 p.m.); Jerry Wilkening; John Kiepura; Jeff Bunge, Vice-Chairman; and Nick Recupito, Chairman. A quorum was attained. **Also present:** Ryan Deutmeyer, Town Attorney; Jill Murr, Planning Director; and Margaret Abernathy; Recording Secretary Pro Tem

APPROVAL OF MINUTES:

Mr. Kiepura made a motion to defer the May minutes; Mr. Wilkening seconded the motion. Motion carried 4 ayes – 0 nays by roll call vote.

Mr. Jackson	Not present
Mr. Wilkening	Aye
Mr. Kiepura	Aye
Mr. Bunge	Aye
Mr. Recupito	Aye

OLD BUSINESS:

- 1. Auger – Developmental Variance – Petitioner: Thomas Auger, Jr.**
Vicinity: 13172 Parrish Avenue

Mr. Recupito advised that the next item on the agenda is Thomas Auger, Jr. for a Developmental Variance for the property located at 13172 Parrish Avenue.

Ms. Murr advised that the petitioner requested a deferral to the July meeting. She further advised that she has received additional information.

Discussion ensued regarding the garage variance on a duplex lot. Ms. Murr stated that the lot only has one parcel identification number and that this duplex is on one lot. Attorney Deutmeyer advised that if the garage is spanning two different lots, it could create some issues; however, he is not familiar with the plat.

Mr. Wilkening requested that the information on this property be sent again as there are storm drainage issues he would like to review before the next meeting.

A motion was made by Mr. Bunge and seconded by Mr. Wilkening to defer this Petition. Motion carried 4 ayes to 0 nays by roll-call vote.

Mr. Jackson	Not present
Mr. Wilkening	Aye
Mr. Kiepura	Aye
Mr. Bunge	Aye
Mr. Recupito	Aye

**2. Waldmarson – Developmental Variance – Petitioner: Michael Waldmarson
Vicinity: 13401 Wicker Avenue**

Mr. Recupito advised that the next item on the agenda is for Michael Waldmarson for a Developmental Variance for the property at 13401 Wicker Avenue. The petitioner is requesting a Developmental Variance to allow a metal garage in a B-1 Zoning District, which is being used for residential purposes.

Attorney Deutmeyer advised that all items are still in order for this Public Hearing to continue.

Mr. Waldmarson stated that his request has not changed from his original appearance at the May meeting and described the garage as a 24-foot by 26-foot steel-framed garage with the garage door facing Wicker Avenue that will be within all the required setback lines. The uprights are to be 4 feet apart. The shed is being removed and the garage is going up in that location with the door facing Wicker Avenue. There is only one door to the garage.

Ms. Murr explained that this item was deferred from the last meeting and that the Board had requested that the petitioner have a conversation with the Building Department and Mr. Kubiak regarding making the structure more permanent. The recommendation is to have a monolithic-poured foundation and anchoring.

Mr. Waldmarson agreed to have the foundation and anchoring as recommended.

The Board discussed being more comfortable with this type of a structure due to the property being in a B-1 Zoning District.

Mr. Recupito opened the floor for the Public Hearing at 7:12 p.m. Having no one coming forward to speak, Mr. Recupito closed the Public Hearing and brought the matter back to the Board.

Mr. Recupito asked that any motion made on this Petition include the size of the garage and the monolithic-poured foundation with anchors.

A motion was made by Mr. Wilkening and seconded by Mr. Bunge to approve the variance to allow Michael Waldmarson to build a steel-framed garage with a in a B-1 Zoning District, utilized for residential purposes, on the property located at 13401 Wicker Avenue, with the conditions that the garage has monolithic-poured foundation and anchoring and be 24-feet by 26-feet in size, referencing the Findings of Fact. Motion carried 3 ayes to 1 nay by roll-call vote.

Mr. Jackson	Not present
Mr. Wilkening	Aye
Mr. Kiepura	Nay
Mr. Bunge	Aye
Mr. Recupito	Aye

NEW BUSINESS:

**1. Dust – Developmental Variance – Petitioners: Daryl and Denise Dust
Vicinity: 13225 Colfax Street**

Mr. Recupito advised that the next item on the agenda is for Daryl and Denise Dust for a Developmental Variance to allow a front-yard setback of less than 30 feet to build 32-foot by 26-foot, 832-square-foot metal, post-frame building with a height of 15 feet 12 inches and a 12-foot sidewall height and allow a maximum accessory size over 1000 square feet on the property located at 13225 Colfax Street.

Mr. Daryl Dust stated that his request is to build a 32-foot by 26-foot, 832-square-foot metal, post-frame building with a height of 15 feet 12 inches and a 10-foot sidewall height, noting that the wall height is not 12-feet in height, and the he be allowed more than 1000 square feet in accessory structures. They are proposing a front-yard setback from 15-feet to 20-feet, running at an angle. There is an existing 12-foot by 16-foot shed on the property that will be staying on the property and being moved to the south a bit more and will be 10 feet from the property line. There will be 14 feet in between the two buildings. The existing garage will be removed. The proposed garage has a 5-12 pitch and will not be sided to match the house.

Ms. Murr advised that the Preliminary Plat and Final Plat have been reviewed at the Plan Commission and was approved for a 15-foot setback from the house, and heading south at the end of the driveway, that will start going to a total of 20 feet. There is a well in the front yard. This is an older lot, one-lot subdivision. He asked for and received approvals for waivers. She recommended making any motion contingent upon the execution of the Final Plat.

Mr. Wilkening explained that this property has been a challenge due to age. It is an existing, non-conforming property with a well in the front-yard. There have been challenges with road-improvement projects and the well being near the road. Mr. Wilkening noted that they are trying to have all the metal and post-frame buildings not look like what they are is beneficial to the neighbors.

Mr. Recupito opened the floor for the Public Hearing at 7:22 p.m. Having no one coming forward to speak, Mr. Recupito closed the Public Hearing and brought the matter back to the Board.

Mr. Recupito asked Ms. Murr if the height is compliant with the Zoning Ordinance. Ms. Murr responded that the requested height of 15-feet, 10 inches is taller than the allowable height of 14 feet.

Members of the Board expressed a desire for the accessory structure to look similar to the house, which is vinyl sided. Mr. Dust explained that he is going with the 5-12 pitch as it looks more like the pitch of the roof of the house instead of the standard 4-12 pitch. Mr. Dust was asked if he would consider putting vinyl siding on the structure to make it look more like the house to which he responded in the negative

and commented on the price of lumber. Mr. Dust mentioned other properties near his home that have similar structures to what he is requesting on lots smaller than his. Discussion ensued.

Mr. Dust stated that the design he chose will have windows in the front doors and will have wainscoting around it. The garage he is replacing was built in 1927 and sits on railroad ties, which are sinking.

Ms. Murr stated that the Dust property was close to having an acre, and dedicating some of the right-of-way, his buildable lot area shrunk. His Final Plat was approved and will be effective next week after the 30-day waiting period for signatures on the same has passed. She asked that any motion be made contingent upon the execution of the Final Plat. Mr. Recupito stated that they are waiting on the newest member to arrive, and his vote could affect the outcome.

Mr. Wilkening asked Ms. Murr how close to an acre his lot was before granting more right-of-way to the Town. Ms. Murr responded that it was 0.90 acres, plus or minus.

Mr. Kiepura stated that the Plan Commission had no problem with the metal garage, where it was going, or the size of the lot, so the BZA shouldn't have a problem with it either based on all the research and work the Plan Commission put into it. He felt the Board should move forward and give approval for the garage.

Mr. Bunge asked if the southern line of the property was heavily wooded. Mr. Dust responded in the affirmative and noted that there are 22 trees in that area. Discussion continued.

Mr. Recupito asked Attorney Deutmeyer if they can defer the decision on this petition to later in the meeting. Attorney Deutmeyer responded in the affirmative and advised him that he could do so by way of a motion and recommended that the Public Hearing be opened again when the agenda item is revisited. Mr. Recupito offered Mr. Dust the option to defer the decision on the garage until later in the meeting. Mr. Dust agreed to wait for the last member to arrive.

A motion was made by Mr. Wilkening and seconded by Mr. Kiepura to defer the decision on this Petition to the later in the meeting as the new member would be arriving soon. Motion carried 4 ayes – 0 nays by roll-call vote.

Mr. Jackson	Not present
Mr. Wilkening	Aye
Mr. Kiepura	Aye
Mr. Bunge	Aye
Mr. Recupito	Aye

2. Papiese – Developmental Variance – Petitioners: Richard and Karen Papiese Vicinity: 8029 Lake Shore Drive

Mr. Recupito advised that the next item on the agenda is the Petitioners Richard and Karen Papiese for a Developmental Variance to allow them to build a new home on fronting on a dedicated and improved street with an attached garage of 936 square feet on the property located at 8029 Lake Shore Drive.

Attorney Deutmeyer advised that all items are in order for this Public Hearing to proceed.

Ms. Karen Papiese asked to build the house with a setback of 30 feet. There is a house in front of the property that fronts Lake Shore Drive. She stated that her husband has a medical condition and will be in a wheelchair soon, and she would like to have a larger porch in the garage with a ramp.

Ms. Murr displayed the property in question on the GIS map and explained that the house doesn't front on an improved street. She has already gone through the one-lot subdivision process and was granted a right of access by the Town near the roundabout.

Mr. Recupito offered to let Ms. Papiese wait for the fifth Member to proceed. She opted to proceed.

Mr. Wilkening advised that the access is a perpetual, exclusive easement that was recorded on September 23, 2020. This will replace an existing home that was being used. He noted that he doesn't believe this was properly advertised for the porch and ramp. Ms. Murr advised that porch and ramp inside would be inside the oversized 936 square-foot garage that was properly advertised.

Mr. Recupito opened the floor for the Public Hearing at 7:38 p.m. Having no one coming forward to speak, Mr. Recupito closed the Public Hearing and brought the matter back to the Board.

Ms. Murr advised that the Building Department has reviewed her petition to ensure everything that is needed has been requested here. (Mr. Jackson entered the meeting.)

(44:57) Mr. Recupito asked if she would put a placard by the road with the address on it. Ms. Papiese stated that they can. Mr. Wilkening asked how far the proposed patio is setback from the lake. Ms. Papiese responded that it is either 75 feet or 100 feet.

A motion was made by Mr. Kiepura seconded by Mr. Wilkening to allow the Petitioner to build a new home not fronting on a dedicated and improved street with an attached garage of 936 square feet, per Findings of Fact. Motion carried 4 ayes to 1 abstention by roll-call vote:

Mr. Jackson	Abstain
Mr. Wilkening	Aye
Mr. Kiepura	Aye
Mr. Bunge	Aye
Mr. Recupito	Aye

1. Dust Continued from New Business above

Mr. Recupito introduced the Petition again and asked Mr. Dust to explain his petition for Mr. Jackson, and Mr. Dust complied. The Board Members recapped what transpired earlier in the meeting.

Mr. Recupito reopened the floor for the Public Hearing at 7:43 p.m. Having no one coming forward to speak, Mr. Recupito closed the Public Hearing and brought the matter back to the Board.

A motion was made by Mr. Kiepura seconded by Mr. Bunge to approve the Developmental Variance to allow Daryl and Denise Dust to have a front-yard setback less than 30 feet and to build a 32-foot by 26-foot, 832 square-foot, metal post frame building with a height of 15 feet 10 inches and 10-foot sidewall height and to allow the maximum accessory structure of over 1000 square feet, contingent upon the execution of Final Plat, per the Findings of Fact. Motion carried 3 ayes to 2 nays.

Mr. Jackson Aye
Mr. Wilkening Nay
Mr. Kiepora Aye
Mr. Bunge Aye
Mr. Recupito Nay

3. Jostes – Developmental Variance – Petitioners: Jennifer and David Jostes
Vicinity: 7410 W. 143rd Lane

Mr. Recupito advised that the next item on the agenda is the Petitioners Jennifer and David Jostes to allow them to build a 6-foot, black aluminum fence in a front yard on the property located at 7410 West 143rd Lane.

Ms. Diane Jostes was present on behalf of Jennifer and David Jostes with an affidavit granting her permission to speak on their behalf as they are out of town on vacation. Ms. Jostes informed the Board that she grew up on the property.

Attorney Deutmeyer advised that all items are in order for this Public Hearing to proceed and recommended including the affidavit in the record.

AFFIDAVIT OF JENNIFER AND DAVID JOSTES

Affiants, JENNIFER JOSTES and DAVID JOSTES, state as follows:

1. We have filed an application for variance which is being heard by the BZA on June 10, 2021.
2. We will be out of town on that day and unavailable for the hearing.
3. Diane Jostes is familiar with our application for variance.
4. We authorize her to speak on our behalf as our representative at the meeting.

Affiant hereby certifies that the information given is true and complete to the best of her knowledge.

Date: 5/19/21

[Redacted Signature]
JENNIFER JOSTES

[Redacted Signature]
DAVID JOSTES

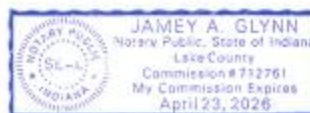
STATE OF INDIANA)

) ss.

COUNTY OF LAKE)

Before me, the undersigned, a Notary Public, in and for said County and State, this 19th day of May, 2021, personally appeared [Redacted], said persons being over the age of 18 years, and acknowledged the execution of the foregoing instrument.

[Redacted Signature]
Jamey Glynn, Notary Public
Resident of Lake County, Indiana



Ms. Jostes stated that Jennifer and David Jostes are seeking a variance to build a 6-foot, black aluminum fence around the perimeter of the property including the front yard. The fencing is to keep the dogs inside the fenced area and the neighborhood dogs out. The subdivision was designed by Mr. Surprise, who owned the golf course at one time. He did some creative design there. The house was built in 1919. There is not an existing fence. The proposed fence will come off of either side of the front of the house.

Mr. Murr advised that the fencing is open. The property is unique in that the house does not face the road; it faces the side yard. The fence has been reviewed by the Building Department. Ms. Murr advised that the front of the house does not face the street, the side of the house faces the street. Ms. Murr explained that any part of a yard touching a street is considered a front yard for building purposes.

When asked if the fence would be gated, Ms. Jostes stated that she believes it is. They have five daughters and many vehicles. Ms. Murr noted that they have proposed a gate at the driveway.

Ms. Jostes explained that there was a street that ran at an angle in front of the house many decades ago possibly in front of what would have been the front door at the time. The neighbors got together and vacated the street.

Mr. Recupito stated that typically that when any portion of the house faces the street, it is usually considered a front yard. Ms. Murr stated that is why the Petitioners are requesting the variance to build the 6-foot, black aluminum fence in a front yard because that would be the front yard by our standards. Ms. Murr stated that 143rd Lane is a dead-end road that ends at the lake. This is in the vicinity of Surprise Park's park.

Mr. Bunge asked Ms. Murr to clarify what the Zoning Ordinance allows. Ms. Murr advised that an open fence of up to 4-feet tall is allowed in a front yard.

Ms. Jostes noted that they are asking for the taller fence due to having two larger dogs.

Mr. Recupito opened the floor for the Public Hearing at 7:57 p.m.

Mr. James Waliczek, 7412 W. 143rd Lane, stated that he owns the house to the west of the property in question, and there are two big trees between the houses right on the property line. He asked what will happen on the west side of the house. He expressed concern about what would happen if the fence isn't put in right as he is going to tear down the current house and build a new house, and if those trees are on his property, he intends to have them removed.

Mr. Recupito advised Mr. Waliczek that the petitioners will have to apply for a permit and a survey will have to be submitted with the permit application. The fence will be put on that property line. Ms. Murr confirmed the same.

Mr. Kiepora stated that the Building Department will issue the permit and ensure that it goes in the proper location. Until the Petitioners apply for the permit and the Building Department reviews the survey, the questions Mr. Waliczek is asking cannot be answered. He recommended that Mr. Waliczek talk to his neighbors when they return home. Mr. Recupito commented that the Petitioners have the right to put a fence along that particular property line without the Board of Zoning appeals having to be involved at all. The only item being requested from the board is for the fence in the front yard that is facing the street.

Having no one else coming forward to speak, Mr. Recupito closed the Public Hearing at 8:04 p.m. and brought the matter back to the Board.

Mr. Recupito asked if Ms. Jostes would be willing to have a conversation with Mr. Waliczek, and she responded in the affirmative and stated that Mr. Jostes is concerned about the tree as well.

A motion was made by Mr. Kiepura and seconded by Mr. Wilkening to approve the variance to allow Jennifer and David Jostes to install 6-foot black aluminum fence in the front yard similar to the picture as presented not to protrude any farther than the house on 143rd Avenue for the property located at 7410 West 143rd Lane, per the Findings of Fact. Motion carried unanimously by roll-call vote:

Mr. Jackson	Aye
Mr. Wilkening	Aye
Mr. Kiepura	Aye
Mr. Bunge	Aye
Mr. Recupito	Aye

**4. Early – Developmental Variance – Petitioners: Ryan and Amanda Early
Vicinity: 14323 and 14326 Lake Shore Drive**

Mr. Recupito advised that the next item on the agenda is a Developmental Variance for Ryan and Amanda Early for the property located at 14323 and 14326 Lake Shore Drive to build a house 8 feet, 7 inches from 143rd Place and 20 feet, 6 inches from Elm Street and to allow a lot coverage over 25 percent.

Attorney Deutmeyer advised that all items are in order for this Public Hearing to be conducted.

Ryan and Amanda Early stepped up to the podium and requested to keep the same building lines that the current garage is on, which is an existing, single-story garage. They would like to build a new 1-1/2-story house with a garage using the same building lines on the L-shaped lot as it was originally one lot that was sold off as different parcels.

Mr. and Mrs. Early explained that the original house was torn down approximately four or five years ago. It sat on the part of the parcel that they do not own, but they let Mr. Kubiak access the home through their land to demolish the original home.

Ms. Murr advised that this is a unique lot that overlooks the lake with a steep hill.

When asked what the overall lot coverage would be, Mr. Early responded that the overall lot coverage would be roughly 2200 square feet, which is 33 percent per Ms. Murr. A brief discussion ensued.

Mrs. Early stated that the width of the house is 48 feet. The setback lines are 20 feet on one side and 8 feet on the other. When Mr. Kiepura asked if the house could be moved a bit more along the road edge. Ms. Murr explained that with the topography, they may not be able to move the home. Mrs. Early stated that according to the survey done by DVG, the neighbor's deck and part of his asphalt driveway is on their property. Mr. and Mrs. Early stated that they are fine with it.

The front of the house will face Elm Street, the deck will face the backyard. There is at least one-hundred feet (100') from the back of the house to the rear yard line. Mr. Early noted that the plan is to install landscaping stairs with a concrete wall at the end.

Mr. Wilkening asked if Mr. Kubiak has provided any written comments on this property. Ms. Murr responded in the negative.

Mr. Recupito asked if the porch is going to be an enclosed porch, and the Petitioners responded that it will be a covered porch and not an enclosed porch.

When asked if the Petitioners own Lot 12, Ms. Murr responded that they own half of Lot 12, which is combined with Lot 1.

Mr. Wilkening asked Mr. Early if he has anything drawn up regarding the hill and maintaining it so it doesn't cause a problem in the future. Mr. Early responded that he does not, but the house is going to be so far away. Mrs. Early added that there is currently a retaining wall and where the house was torn down, a concrete wall of the foundation was left. Mr. Early commented that he would like to put large concrete stones down there and landscape the rest; and he promised that it will not look the way it does currently.

Mr. Wilkening questioned if Mr. Oliphant has had a chance to review the property as there may be more variances that might be required. Ms. Murr advised that Mr. Oliphant will have a chance to review the property at the permitting stage.

Mr. Recupito opened the floor for the Public Hearing at 8:25 p.m. Having no one come forward to speak, Mr. Recupito closed the Public Hearing and brought the matter back to the Board.

Mr. Recupito asked how many feet are between the porch and the property line to the west, the rear property line. Ms. Murr responded that it will be just over 8 feet, which is the required setback for a side yard. Ms. Murr explained that the Early's property is half of Lot 12, which was combined with Lot 1, and they own Lot 2, which makes up a 65-foot-wide parcel on Elm Street. Lot 1 and Lot 12 are both 100 feet deep, plus or minus, for an approximate depth of 200 feet from Elm Street to Lake Shore Drive.

When asked for clarification of the porch's size, Mrs. Early responded that the size is 12 feet by 12 feet. Discussion ensued about which address would be used.

Mr. Wilkening stated that he would abstain from a vote because there are too many questions. The lot coverage isn't an issue; the property is. He requested to have a review in writing from either Tim Kubiak or Don Oliphant on this property.

Mr. Recupito asked Mr. Wilkening if he is requesting a deferral. Mr. Wilkening stated that a deferral would be great until they get something in writing from Tim Kubiak and/or Don Oliphant.

Mr. Kiepora said they are not building the house; they are wanting to know if they can build a house there. When it comes time for permits, then they have to address everything that becomes an issue.

Attorney Deutmeyer advised that the issue is the unknown, and they may have to come back for another variance or variances once they start working with the Building Department.

Mr. and Mrs. Early agreed to meet with Mr. Kubiak. Mr. Wilkening asked Ms. Murr to relay the information from the Petitioners to the Board of Zoning Appeals. Ms. Murr agreed to the same.

Mr. Recupito asked the petitioners if they would like to defer their request until the following month to have time to discuss the property with Mr. Kubiak. They responded in the affirmative.

A Motion was made by Mr. Wilkening and seconded by Mr. Kiepura to defer the Petition for Ryan and Amanda Early for the property at 14323 and 14326 Lake Shore Drive until the Board of Zoning Appeals Public Meeting on July 8, 2021. Motion carried unanimously by roll-call vote:

Mr. Jackson Aye
Mr. Wilkening Aye
Mr. Kiepura Aye
Mr. Bunge Aye
Mr. Recupito Aye

5. Blane – Developmental Variance – Petitioner: Martin Blane
Vicinity: 14853 Ivy Street

Mr. Recupito advised that the next item on the agenda is the Petitioner Martin Blane requesting a Developmental Variance to allow a shed to be built in a side yard on the property at 14583 Ivy Street.

Attorney Deutmeyer advised that all items are in order for this Public Hearing to be conducted.

Mr. Martin Blane stated that he wants to build a shed on the south side of his house about 5-feet off of the house, he will follow all the other parameters that are required. There is a double gate on his fence that would be eliminated in the future as the shed sides will tie into the fence. He can't build the shed in the backyard because the distance he has to be off the fence line. The property elevation is high, and there is about a 10-degree of depression from the foundation of the house. The area he is proposing is about the only flat area he has. The shed will have doors in the front and the rear of the shed.

Ms. Murr advised where the shed would be placed. It will back up to and connect to the fence. The only request is the separation between the house and the shed and for placement in the side yard.

Mr. Recupito opened the floor for the Public Hearing at 8:49 p.m. Having no one coming forward to speak, Mr. Recupito closed the Public Hearing and brought the matter back to the Board.

Mr. Wilkening stated that he thinks the shed should be in the fence. Mr. Recupito asked the Petitioner if he would consider the same. Mr. Blane responded that if he fenced up to the west of his house, it would be in the fence, but he had decided to fence to the rear of his house instead of the front of his house. Mr. Bunge noted that the property has challenges with the topography. Discussion ensued about the shed placement and the desire to have it behind the fence.

Mr. Blane stated that there are sheds in side yards of houses near his house that have no fence in the yard. Discussion continued regarding shed and fence placement.

The Board asked Attorney Deutmeyer if they could approve the variance requests separately. Attorney Deutmeyer responded that they could.

A motion was made by Mr. Bunge and seconded by Mr. Wilkening to grant the Developmental Variance and allow the Petitioner Martin Blane to build a shed with a placement of 4 feet from the southern foundation of the house for the property located at 14583 Ivy Street, per the Findings of Fact. Motion carried unanimously by roll-call vote:

Mr. Jackson Aye
Mr. Wilkening Aye
Mr. Kiepura Aye
Mr. Bunge Aye
Mr. Recupito Aye

Ms. Murr asked if the Board could make a motion for the shed contingent upon moving the fence. Attorney Deutmeyer responded in the affirmative. Discussion continued with the Members requesting the Petitioner's shed be enclosed by the fence. Attorney Deutmeyer advised that they could make the enclosure a contingency.

A motion was made by Mr. Wilkening and seconded by Mr. Jackson to approve the Developmental Variance request for Martin Blane to have a shed 4 feet from his southern foundation line with the contingency that prior to final inspection, the fence encompasses the shed, not to exceed the front of the foundation on the west side on the property located at 14583 Ivy Street, per the Findings of Fact. Motion carried unanimously by roll-call vote:

Mr. Jackson Aye
Mr. Wilkening Aye
Mr. Kiepura Aye
Mr. Bunge Aye
Mr. Recupito Aye

6. Jones – Developmental Variance – Petitioner: Matthew Jones
Vicinity: 12942 Knight Street

Mr. Recupito advised that the next item on the agenda is the Petitioner Matthew Jones requesting a Developmental Variance to build a 31-foot by 32-foot, 992 square-foot metal post frame building with a height of 15 feet 2.5 inches and a sidewall height of 11 feet 4-inches.

Attorney Deutmeyer advised that all items are in order for this Public Hearing to be conducted.

Mr. Matthew Jones introduced himself to the Board and stated his request. He wishes to build a 31-foot by 32-foot metal post frame building with a height of 15 feet 2.5 inches and a sidewall height of 11 feet 4-inches. The other accessory structures will be removed from the property.

Ms. Murr advised that this Petition has been reviewed by Tim Kubiak and herself, and everything that is needed is listed for the structure is listed for the Board's consideration.

In response to Board questions, the Petitioner stated that following. The lot size is 125 feet by 200 feet. He stated that his lot size is greater than the 15,000 square feet required to build a 1,000 square-foot accessory building. The sidewall height is due to the 8-foot doors. The pitch of the roof is 3/12. The color of the structure will match the house, but it will be metal siding. The foundation is concrete. The doors will have decorative windows and windows on the west side of the building. He lives on a dead-end street, and many of the homes in that area are dilapidated, abandoned original log homes with trees through the roofs with broken out windows and doors. He is trying to improve the area. He could leave the 1926 garage. The only garage he currently has is 12 feet by 22 feet that has an original wood floor. The 20-foot area shown is an abandoned street with oak trees growing in the middle of it. He prefers the look of the steel over the look of standard siding. There are no other houses to the south of his property. The building will not block anyone's view. It will be used to store cars, bikes, lawnmower, motorcycle, etc. The trim is white with the building being an off-white beige like the color of the house.

Mr. Recupito opened the floor for the Public Hearing at 9:27 p.m. Having no one coming forward to speak, Mr. Recupito closed the Public Hearing and brought the matter back to the Board.

Ms. Murr advised that the variance request is for the size, height, sidewall height, and the materials being used. The maximum accessory size on the lot is 1,000 square feet if the lot is between 15,001 square feet and 1 acre. Post frame metal buildings are allowed on lots of 1.01 acres in size or greater.

Mr. Wilkening stated that it is a commercial looking building in a residential neighborhood. The preference would be for it not to have the metal siding.

A motion was made by Mr. Kiepura and seconded by Mr. Jackson to grant a Developmental Variance to allow Mr. Jones to build a 31-foot by 32-foot, 992 square-foot metal post frame building with a height of 15 feet 2.5 inches and a sidewall height of 11 feet 4 inches on the property located at 12942 Knight Street, per the Findings of Fact. Motion carried 3 ayes to 2 nays by roll-call vote:

Mr. Jackson	Aye
Mr. Wilkening	Nay
Mr. Kiepura	Aye
Mr. Bunge	Aye
Mr. Recupito	Nay

**7. Wunsh – Developmental Variance – Petitioner: Anthony Wunsh
Vicinity: 7511 Lake Shore Drive**

Mr. Recupito advised that the next item on the agenda is the Petitioner Anthony Wunsh seeking a Developmental Variance to build a 1,672 square-foot new home with a 299 square-foot attached garage on a 26-foot by 100-foot lot with no front yard, 2-foot side yards, and building coverage over 25 percent of the lot on the property located at 7511 Lake Shore Drive.

Attorney Deutmeyer advised that all items are in order for this Public Hearing to be conducted.

Mr. Anthony Wunsh introduced himself to the Board and stated his request: Developmental Variances for a side lot, no front yard, garage size, building size compared to lot, lot coverage. He submitted for height variance as well in case it was needed. They are below what the Zoning Ordinance calls for from the roadside and above from the lakeside. It is a two-story home with a walkout basement. The lot

coverage is approximately 70 percent. The footprint of the house is almost the identical footprint of the existing house. They are proposing to move the new house closer to the lakeside for parking in front of the house, which will give them parking for one car in the attached garage and two cars in front of the house. There is approximately 4 feet between the proposed house and the building to the west. The air conditioning unit from State Farm encroaches on the property slightly. The existing house sits at a bit of an angle on the lot. The proposed house will be 20 feet from the road.

Ms. Murr described the parcel of land as an interesting, old, lakeside lot. It is a platted lot of subdivision. She advised that the building height is fine. The plans were reviewed by Ms. Michelle Bakker, Mr. Tony Gatto, and Mr. Tim Kubiak in the Building Department. Everything has been included, including any projections into the required yards: open stairways, open porches. This is the house between State Farm and Bartlett-Wahlberg Park. The side yards are rather small, so they may inquire with the Town to see if they would be willing to sell part of the parkland to make the side yard a little larger there. The proposed house will be 32 feet from the lake.

Mr. Kiepora stated that it appears to be about 48 percent lot coverage. Mr. Recupito asked if Mr. Kubiak had any issues with this project. Ms. Murr responded in the negative.

Mr. Recupito asked if the 2-foot side yards would be 2 feet from the eaves or the foundation. Multiple Members responded that it is measured from the gutters.

Mr. Carnahan explained the history of the Town acquiring the Wahlberg property as well as a tavern and a house that were adjacent to the property, and if the Town could have gotten this parcel, he would have worked on that as well.

Mr. Recupito opened the floor for the Public Hearing at 9:47 p.m. Having no one coming forward to speak, Mr. Recupito closed the Public Hearing and brought the matter back to the Board.

Mr. Recupito stated that this was advertised as 2-foot side yards, because if it is measured from the gutter, the side yards are 2-foot minus the overhang of his house. Attorney Deutmeyer advised that they can deny the request, approve it, or approve it with contingencies for modifications based upon what the Board deems fit. Mr. Kiepora stated that he is okay with the side yards as the gutters are 30 feet in the air, and this is replacing a legacy house. Mr. Wilkening stated that there are a lot of plusses to this project.

Mr. Wilkening asked if the Town has any liability approving this when another entity has equipment on their property. Attorney Deutmeyer responded in the negative.

Mr. Wilkening stated that he would consider allowing the Petitioner to move the house a bit farther to the east so there is more room between the proposed house and the other building. Mr. Carnahan commented that there are washrooms that will be constructed there. Ms. Murr confirmed that the washrooms are to be built on the west side of the park next to the property in question.

Mr. Wunsh stated that he is considering asking the Town to buy the approximate 15 feet of property that he has been maintaining that used to be a walkway for the old greenhouse that used to be located on that property. Mr. Carnahan stated that he is one of the Councilmembers, and he would not be in favor of selling any of the park property.

Mr. Wilkening stated that perhaps the Town could give him permission to plant some arborvitae 6-8 feet from the house on the park property. Mr. Wunsh responded that they do not mind the park at all.

Mr. Recupito asked him how much his overhang is. Mr. Wunsh responded that it would probably be edged out about 1 foot on each side. He does not want to move the house closer to the other building as he still wants a walkway on that side of the house. The new structure will be perpendicular to the lot lines instead of angled like the existing structure, so it will be more centered with the lot.

Mr. Bunge stated that he has no issues with this property as it is essentially the same footprint with a garage moved closer to the lake. Mr. Recupito stated that if he is given a 2-foot side-yard setback, he will have to abide by that with the gutters.

A motion was made by Mr. Kiepura and seconded by Mr. Wilkening to grant a Developmental Variance for Mr. Wunsh to build a new 1,672 square-foot house with a 299 square-foot attached garage on a 26-foot by 100-foot lot with no front yard, 2-foot side yards measuring 2 feet from the foundation, building coverage over 25 percent, per Findings of Fact. Motion carried unanimously by roll-call vote:

Mr. Jackson	Aye
Mr. Wilkening	Aye
Mr. Kiepura	Aye
Mr. Bunge	Aye
Mr. Recupito	Aye

8. Cedar Lake Storage, LLC – Developmental Variance – Petitioner: Tim Porter
Vicinity: 9011 and 9019 West 133rd Avenue

Mr. Recupito advised that the next item on the agenda is Cedar Lake Storage, LLC. Tim Porter is requesting a Developmental Variance to allow the existing buildings and proposed parking to encroach into front and side-yard setbacks, and landscaping and screening on the property in the vicinity of 9011 and 9019 West 133rd Avenue.

Attorney Deutmeyer advised that all items are in order for this Public Hearing to be conducted.

Mr. Tim Porter introduced himself and turned the floor over to Ryan Marovich of DVG. Mr. Marovich stated that they are requesting variances for having the three existing buildings in the setbacks, the proposed parking in the front-yard setback, and a variance from landscaping and screening. They want to take the existing site and use it as is with some additional pavement near the northwest corner for the additional parking. The requests are to bring what is existing on that property into compliance with an added pavement area for parking. The site side yards and rear yard have almost no greenspace. The screening would be handled with fencing and privacy slats.

Ms. Murr advised that this was previously before the BZA for a Special Use Variance for the storage facility. The property is zoned M-1, so the fencing and screening would match the existing uses. There is some question on one of the lots. This area will be in front of the Plan Commission for a one-lot subdivision, Primary Plat, and what is required as part of their special use to allow the storage facility.

Mr. Recupito asked why existing buildings have to get a variance. Ms. Murr responded that they are trying to bring the property into compliance. Attorney Deutmeyer stated that he believes it is superfluous. The

buildings are there; it is a legal, non-conforming use. Ms. Murr stated that this was done with the Gard Building and per Mr. Eberly we are going to do this with all the properties like this.

Mr. Wilkening asked if the barbed wire at the top of the fence would be removed and stated that it had been discussed a long time ago. Mr. Porter agreed to have it removed.

Mr. Wilkening asked if there is room for a detention area to the south. Mr. Marovich confirmed the same and stated that they are currently working out an agreement with the property owner. The detention pond will be sized for both that lot and the Cedar Lake Storage lot.

Mr. Wilkening asked if blacktopping the whole property was discussed at one time. Others agreed. Mr. Recupito stated that he believes that was part of the approval for the special use. Mr. Wilkening added that it was discussed that they were going to have stripes and sizes of spaces and other things. Mr. Porter responded that this is only for the front part for office parking.

Mr. Wilkening asked how they deal with the stormwater without blacktop. Mr. Marovich stated that the yard would have approximately a 2-percent slope, so it will sheet flow. It will be compacted gravel, so it will still flow to the south, and the overland flow will be restricted a bit because of the gravel; so it will help out. Mr. Wilkening countered that the water currently sits in the middle. Mr. Marovich concurred and noted that it will change. They are working through that on the engineering and will be accounted for in the new basin. From 133rd Avenue to the south edge, it will be about 1.5 to 2 percent slope.

Mr. Wilkening stated that it is a commercial property, and he doesn't know how it changed from the blacktop. Ms. Murr advised that it is going through the one-lot subdivision process, and any of those requirements Mr. Marovich and Mr. Oliphant are working on the stormwater. Mr. Wilkening stated that on the DVG letter, item 1, special use permit, now there is a request to allow boat and vehicle storage on the property. Ms. Murr responded that it was the cross between the two engineers, and the favorable recommendation that was sent to the Town Council was for the Special Use Variance to allow the Petitioner to operate an indoor/outdoor storage facility for boats, RVs, cars, and trucks no larger than 3/4-ton pickups, hours of operation 7 a.m. to 7 p.m., 119 parking spaces, contingent upon Plan Commission approval of 1-lot subdivision and land-use approvals with one year to complete the projects. The Town Council approved the favorable recommendation on January 19, 2021.

Mr. Recupito asked what the setbacks are. Mr. Marovich stated that the setbacks will remain the same; however, the front yard would probably change due to dedication of right-of-way as part of the platting process. He further stated that one of the side yards is 10 feet and the other is 15 feet for a total of 25 feet, and the rear is 30 feet.

Mr. Recupito stated that he is concerned that any action taken tonight could impact the Special Use Variance. He is fine with where the buildings are sitting.

Mr. Wilkening stated that he does not believe that there can be barbed wire on top of the fence and back up to residential property. Ms. Murr responded that some of the areas with the landscape and screening, with the building being right up on the property line, it is going to be hard to put arborvitaes in there. Mr. Wilkening stated that he did not mention arborvitaes for this property; but barbed wire can't be next to residential property. Ms. Murr stated that she is checking on the zoning for that one property to see if it is M-1 or R-2.

Mr. Kiepora stated that Mr. Porter already agreed to remove the barbed wire. He confirmed the variances requested and asked how much encroachment would be taken for the parking. Mr. Marovich responded that the parking would encroach approximately 9-10 feet. That may change because the dedicated right-of-way, so it will be about midway of the parking space, which could be anywhere from 10-15 feet encroachment in the front yard for those seven 10-foot by 20-foot parking spaces. Percentagewise, it works out to be 50-75 percent of those parking spots depending on the right-of-way that will be required. The current front yard setback is 50 feet from the apparent right-of-way, which is to become larger. Mr. Marovich noted that Mr. Oliphant asked that it be 20 feet from the current edge of pavement, leaving approximately 30 feet in the front of unused space. One space encroaches on the side about 10 feet of an encroachment. He added that even though it is not striped, they are currently parking in front of that fence next to the bench.

Mr. Wilkening asked if we are negating anything. Attorney Deutmeyer responded that it should not be negating anything, but any approval should be made contingent upon those approvals coming from the Plan Commission. Mr. Wilkening expressed concern about negating anything due to the contingency allowing one-year completion of the project.

Discussion ensued regarding the one-year completion approval; wherein, Attorney Deutmeyer advised that the one-year completion is one year from the date of the Town Council's approval (January 19, 2021).

Ms. Murr asked for confirmation that the proposed parking encroaching and in the front and side-yard setbacks are all asphalt. Mr. Marovich confirmed the same and noted that is for the front building, which is the office building. There technically wouldn't be any parking in the yard by someone coming to use the office. They would be parking in a paved area.

Mr. Wilkening pointed out that the letter from DVG says revised 5-4-2021, and the Special Use request is quite simplistic to what Ms. Murr has. Mr. Recupito asked whether or not they would be messing up any of the progress that has been made. Mr. Wilkening mentioned the Site Plan revised letter. Ms. Murr stated that the asphalt would be addressed at the Site Plan approval at the Plan Commission.

Mr. Wilkening stated that they haven't asked for a variance for such; this is for asphalt in the front as if there is not going to be asphalt in the rest of it. Ms. Murr stated that the only portion they are requesting from the BZA is for the proposed parking to encroach in the front and side-yard setbacks. They would still need to meet the parking requirement, the pavement standards. Mr. Wilkening asked if the whole site would be blacktopped. Mr. Porter responded in the negative. Mr. Recupito and Mr. Wilkening stated that they had the asphalt issue pinned down at the previous BZA meeting. Mr. Bunge stated that he does recall discussion; however, he had missed a meeting and cannot recall if that was when this was discussed. Mr. Kiepora remembers it being mentioned but cannot recall what the answer was. He remembers receiving an email from Mr. Eberly regarding soils and gravel they had that needed to be addressed. Mr. Carnahan stated that he remembers pavement being mentioned, but he does not remember if it was in the verbiage or not. Mr. Wilkening stated that there are no storage facilities in town that are not blacktopped.

Mr. Wilkening informed Mr. Marovich that he is looking at the letter and stated that it looks we're started all over again. Mr. Marovich asked which letter. Ms. Murr stated that it is the DVG Findings of Fact page, which was discussed, but it was never taken off the request, the special use for the storage buildings, and that was not advertised for in the advertisement. Mr. Wilkening stated that Mr. Eberly wasn't here

originally and he is not in tune with all the minutes. Mr. Wilkening stated that with the exhibits that are at the meeting tonight, it does not seem right, and he is concerned.

Mr. Recupito opened the floor for the Public Hearing at 10:22 p.m. Having no one coming forward to speak, Mr. Recupito closed the Public Hearing and brought the matter back to the Board.

Mr. Kiepura stated that Mr. Marovich spoke about an encroachment. There is 50 feet, and an encroachment could be 45 feet, so based on the comments, it would be 10 by 20 side-lot encroachment. He asked Mr. Marovich if the front would increase or decrease. Mr. Marovich responded that the current 50 feet may increase more because the Town is asking for more right-of-way because there is the frontage road, which would still travel over the property, which would push back the front-yard setback which would mean the over 50 percent of the front building would be in the front setback if it shifts. What is being asked for here is encroachment for parking.

Mr. Kiepura asked what is being asked for with the landscaping and screening variance. Mr. Marovich stated that part of it would be for screening as that would be part of the buffer, but in lieu of the fence would work too. There is very little greenspace and very little landscape as it is. Ms. Murr stated that the variance request is to waive the buffer zone and the required landscaping in that buffer zone. Mr. Wilkening added that it is a waiver of the buffer zone between commercial and residential properties and that he has no issues with waiving the buffer.

There was discussion on the landscaping, and Mr. Wilkening asked if the waivers should be done at the Plan Commission. Ms. Murr stated that the landscape waiver can be taken up at the Plan Commission.

Mr. Marovich stated that he was of the understanding that the asphalt and waiver from the same would be done by Plan Commission approval. Mr. Wilkening responded he had asked Mr. Porter if they gave him a year to finish everything, he responded yes, that was in lieu of opening the business before it was blacktopped. Mr. Wilkening stated that he had a conversation with Mr. Oliphant early on regarding the blacktopped. Mr. Carnahan stated that it is policy to have all new projects to be blacktopped.

Mr. Recupito stated that if this were a new business, it would have to have blacktop, and there is no reason this cannot have blacktop.

Attorney Deutmeyer advised that the back-up option is at the Plan Commission level. The variances are not significant. Mr. Wilkening stated that Mr. Marovich engineered it for sheet flow, and that was not what was discussed between he and Mr. Oliphant. Attorney Deutmeyer advised that it can be handled with the 1-lot subdivision.

Mr. Marovich commented that the plan that was presented is the Site Plan that was submitted to Mr. Oliphant for his review, which he received earlier in the week and is working on addressing those comments.

Mr. Kiepura asked if the landscape and screening waiver needs to be done at this meeting or the Plan Commission. Ms. Murr responded that they would do it at the Plan Commission. Attorney Deutmeyer concurred that if waivers are being asked for, they can be handled at the Site Plan and 1-lot subdivision at the Plan Commission as that's probably the best place to handle all that.

A motion was made by Mr. Kiepura and seconded by Mr. Wilkening to grant the Developmental Variance by Tim Porter of Cedar Lake Storage to allow the existing buildings; the proposed parking to encroach into the front and side yards; and the front yard setbacks for 7 parking spots that are encroaching 10 feet by 15 feet each, and 1 10-foot by 20-foot parking spot on the side lot, any landscaping and screening will be addressed by the Plan Commission, per Findings of Fact. Motion carried unanimously by roll-call vote:

Mr. Jackson Aye
Mr. Wilkening Aye
Mr. Kiepura Aye
Mr. Bunge Aye
Mr. Recupito Aye

9. Dykema – Developmental Variance – Petitioner: Ryan Dykema
Vicinity: 13513 Knight Street

Mr. Recupito advised that the next item on the agenda is the Petitioner Ryan Dykema requesting a Developmental Variance to allow him to build a home with a 15-foot front-yard setback and lot coverage over 25 percent on the property located at 13513 Knight Street.

Attorney Deutmeyer advised that all items are in order for this Public Hearing to be conducted.

Mr. Ryan Dykema introduced himself and presented his request to the Board: He requested approval for a tear down to build a new 34-foot by 32-foot house with a detached garage. The lot size is 70 feet by 75 feet. The north side of the house will be a little closer to the setback line than the existing structure so that he can have a driveway in front of the garage because Knight Street is so narrow. The house is approximately 1800 square feet with two stories, but the upstairs is slightly smaller with the roof lines. The house has a smaller footprint than the house that was originally on the lot.

Mr. Kiepura noted that the plat does not have the size of the garage or the size of the house listed.

Ms. Murr advised that the lot coverage is 34 percent. She further advised that Ryan Dykema is the owner of the property and that she has the documents showing the transfer of ownership. The 15-foot front-yard setback is measured from the curb to the house.

Mr. Bunge stated that he wouldn't have a problem dropping the side-yard setback from 8.09 feet to 6 feet and giving more separation between the house and the detached garage.

Mr. Dykema asked if the Fire Department would want to use the house for training before he tears it down. Ms. Murr advised him to call and check with Fire Chief Todd Wilkening.

The Board asked why the garage is not an attached garage. Mr. Dykema responded that he could do an attached garage if he could carry the roofline over to the garage; he knew the size of the lot was small and the footprint was really limited. The Board told him if he attached the garage, he would have more space on the side of the home.

Mr. Wilkening asked the size of the garage. Ms. Murr advised that it is 413.4 square feet and further advised that if they change the size of the garage, it changes the lot coverage, and he would have to stay within 34 percent lot coverage if that is a contingency on the motion.

Mr. Recupito opened the floor for the Public Hearing at 10:47 p.m. Having no one coming forward to speak, Mr. Recupito closed the Public Hearing and brought the matter back to the Board.

A motion was made by Mr. Wilkening and seconded by Mr. Kiepura to grant the Developmental Variance for Ryan Dykema to allow a new home to be built with a 15-foot front-yard setback and lot coverage not to exceed 35 percent with an attached garage on the property located at 13513 Knight Street, per the Findings of Fact. Motion carried unanimously by roll-call vote:

Mr. Jackson	Aye
Mr. Wilkening	Aye
Mr. Kiepura	Aye
Mr. Bunge	Aye
Mr. Recupito	Aye

UPDATE ITEMS:

1. Board of Zoning Appeals Rules & Regulations

Ms. Murr advised that the Board Members were given a draft, and Mr. Eberly and Attorney Austgen are working together some updates. It is anticipated to come before the BZA in July. It will be in conjunction with the Plan Commission's update and the Zoning Ordinance.

Mr. Bunge noted that he had someone come in the store and gave an anonymous tip. The house being built down the hill off of Lake Shore Drive that used to be one of the daughters of the Graces. He asked what size the side-yard variances that were granted on that lot. Mr. Wilkening stated that it wasn't much. Mr. Bunge said someone informed him that it isn't where it is supposed to be. Mr. Wilkening stated that neither neighbor likes what is going on there.

Mr. Wilkening stated that he would like the minutes from the meeting when the property at 133rd Avenue and Lindberg was approved. He stated that they said that they would not paint cars. They may not be painting cars but they are painting busses. They are quiet, but if the Fire Department has not inspected the paint booth, there's a problem. Ms. Murr stated that she would find those minutes and distribute them.

PUBLIC COMMENT:

None was had.

ADJOURNMENT: A motion to adjourn was made by Mr. Bunge. Mr. Recupito adjourned the meeting at 10:58 p.m.

Cedar Lake Board of Zoning Appeals
June 10, 2021 Meeting

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

Nick Recupito, Chairman

Jeff Bunge, Vice-Chairman

Ray Jackson, Member

John Kiepura, Member

Jerry Wilkening, Member

Attest:

Margaret R. Abernathy, Recording Secretary Pro Tem

The Minutes of the Cedar Lake Plan Commission Work Session are transcribed pursuant to IC 5-14-1 5-4(b), which states:

(b) As the meeting progresses, the following memoranda shall be kept:

- (1) The date, time, and place of the meeting.*
- (2) The members of the governing body are recorded as either present or absent.*
- (3) The general substance of all matters proposed, discussed, or decided.*
- (4) A record of all votes taken, by individual members if there is a roll call.*
- (5) Any additional information required under IC 5-1.5-2-2.5.*

Cedar Lake Board of Zoning Appeals: Minutes of the Public Meeting, June 10, 2021

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.