



CEDAR LAKE BOARD OF ZONING APPEALS MINUTES
CEDAR LAKE TOWN HALL, 7408 CONSTITUTION AVENUE, CEDAR LAKE, INDIANA
August 12, 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, August 12, 2021, with its Members attending on-site. The Pledge of Allegiance was recited by all.

ROLL CALL:

Members present: Ray Jackson; Jerry Wilkening; John Kiepura; Jeff Bunge, Vice-Chairman; and Nick Recupito, Chairman. A quorum was attained. **Also present:** David Austgen, Town Attorney; Jill Murr, Planning Director; and Margaret Abernathy; Recording Secretary Pro Tem

APPROVAL OF MINUTES:

Mr. Recupito advised that the minutes for the meetings of May 13, 2021; June 10, 2021; and July 8, 2021, are before them and entertained any corrections or a motion for the same.

Mr. Recupito asked Attorney Austgen if all the minutes could be acted upon at one time. Attorney Austgen responded in the affirmative.

A motion was made by Mr. Kiepura and seconded by Mr. Jackson to approve the minutes for the meetings of May 13, 2021; June 10, 2021; and July 8, 2021. Motion carried unanimously by roll-call vote:

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| Mr. Jackson | Aye |
| 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 the Petitioner Thomas Auger, Jr. for a Developmental Variance to allow him to build a 30-foot by 40-foot, 1200 square-foot metal post-frame building with a height of 16 feet and a 12-foot sidewall height.

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Ms. Murr advised that there is a letter dated July 30th in their meeting packet from Mr. Auger. He is unable to be present this evening as he is out of town and is requesting the item be deferred until September.

Mr. Wilkening noted that this is the fourth month that the Board has been dealing with this due to two deferrals by the Board and two deferrals requested by Mr. Auger. Ms. Murr responded that this is the second deferral at Mr. Auger's request.

Ms. Murr explained that the first deferral during the May meeting was due to the Board requesting more information. The second deferral in June, Mr. Auger had an out-of-town funeral. The third deferral in July was by the Board due to not having the previous meetings' minutes. Mr. Auger is requesting a deferral from the August meeting as he is out of town.

Mr. Wilkening asked if there is any other information other than what they have. Ms. Murr stated that all the information was included in the meeting packet last month and this month for the structure Mr. Auger wants to build.

Mr. Wilkening asked if the placement and stormwater were included. Ms. Murr stated that the placement was included on the survey that was included in the packet.

Mr. Wilkening stated that he does not need any more information to make a decision about this petition; it is a big pole building behind a duplex in a residential area.

Mr. Bunge commented that Mr. Auger had been trying to work out some issues with his neighbor to the south regarding pavement and runoff from the very steep driveway. It runs from his house down into a ditch at Parrish Avenue.

Mr. Wilkening stated that what was originally submitted was referred to as a stormwater correction, but he does not recall if Mr. Auger was putting drains in the building. He commented that there is an elevation issue there.

Ms. Murr advised that according to the information that Mr. Auger had provided, he was not putting drains in any building. Where the shed is being removed will become where the water would start to capture to head down the driveway and go across the front yard.

Mr. Wilkening stated that the stormwater problems are not the building; correcting that stuff would be something somebody might want to do anyway.

Mr. Recupito commented that the biggest issue he has is the fact that the building will be there, what it is, and the size of it. He asked if the Board is suggesting to continue the Public Hearing and possibly have a vote on it. Mr. Recupito asked if that is something that could be done. Attorney Austgen responded in the affirmative and advised that if the Board wishes to take that position, they should act on the deferral as a separate item first, preceding any action on the substantive item before them.

Mr. Wilkening stated that he asked Mr. Auger if he was going to build the structure to match the house, and Mr. Auger said no because building materials are too expensive; finance is not criteria by which the BZA is allowed to make decisions. Mr. Wilkening furthered that he is clear as can be on this matter.

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Mr. Recupito asked if the legals are in order for this to proceed. Attorney Austgen responded that the legals have been in order since the Public Hearing was advertised. The Petitioner does not have to readvertise or re-notice by virtue of the deferrals.

Mr. Kiepura stated that he would prefer that Mr. Auger be present to hear the Board's decision when it is made. He agrees with Mr. Wilkening about the number of deferrals that were made; however, Mr. Auger may be able to shed more light onto the situation than what the Board currently has. He commented that he would be against not deferring the matter.

A motion was made by Mr. Wilkening and seconded by Mr. Jackson to deny the deferral by the Petitioner. Motion carried 3 ayes to 2 nays by roll-call vote:

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

Mr. Recupito asked if the Public Hearing can be continued. Attorney Austgen responded that it is duly noticed and is properly before the Board from the time of the first meeting in May. All the legals checked out then and carried over or continued without additional advertising. Attorney Austgen recommended opening the floor to see if there is anyone present to speak on the matter.

Mr. Recupito asked if there is a Petitioner here or online. Having none, he opened the floor for the Public Hearing at 7:11 p.m., and having no one come forward to speak, he closed the same and brought the matter back to the Board.

Mr. Recupito asked Ms. Murr if anything had come in since the last correspondence. Ms. Murr stated that the Board deferred the item at the last meeting, and Mr. Auger did not get a chance to speak on the additional information that had been provided. Ms. Murr recapped the timeline: The Board requested additional information at the May meeting. In June, the information was here, but the Petitioner was not. At the July meeting, the Petitioner was in the room, but the Board deferred the Petition before we got to that item. Mr. Auger is not present this evening, and the Board denied his request for a deferral.

Attorney Austgen advised that the minutes of this meeting should reflect exactly what Ms. Murr had just described in content only.

Mr. Recupito asked if there are any comments on this matter or what they feel about the Petition at hand other than the fact that it was deferred and the discussion about that. Mr. Wilkening stated that it doesn't fit the criteria that we are responsible in following to make decisions as presented. It will look like a pole building by a duplex in a residential area. It is 30 feet by 40 feet and not a two-car garage.

Mr. Bunge asked if Mr. Auger is allowed 800 square feet. Mr. Recupito responded in the affirmative.

Mr. Wilkening noted that it isn't the square footage that bothers him; it is a pole building proposed in a residential neighborhood. He commented that this is a duplex on Parrish Avenue, and having things be something they don't look like, such as siding like the house, doesn't fit or enhance the neighborhood.

Mr. Recupito stated that he believes there was a neighbor that had some issues with it. Mr. Wilkening asked if that was other than stormwater. Mr. Recupito responded in the affirmative, noting it was on the structure itself. Mr. Recupito further stated that Mr. Auger is not going to side it like the house.

Discussion ensued.

Mr. Recupito stated that he understands Mr. Kiepura's position of having the gentleman present. We have not received any new information, and unless the plan was revised seriously, he is unsure if he could be for this Petition. He expressed uncertainty because it is behind a duplex on a small lot. Mr. Wilkening stated that he had hoped the information would have been different after the first discussion.

Attorney Austgen cautioned the Board to remember the criteria; it might help them find the path here. Mr. Recupito stated that he thinks lacking a hardship is a big impact. Attorney Austgen responded that the strict application of the Town's Zoning Ordinance terms "result in practical difficulties in the use of the property." Mr. Wilkening stated that there are two duplexes right next to each other, and it could be assumed that it may or that it may not. Attorney Austgen responded, "but for a variance of use, could the property be used?" He further responded that it sounds like it's already being used. Mr. Wilkening stated that the Petitioner can use it perfectly according to his neighbors.

Mr. Recupito asked if there was anything keeping Mr. Auger from putting up a garage that meets the Zoning Ordinance criteria in terms of size and structure as there is currently no garage. Ms. Murr responded in the negative. Mr. Bunge stated that he doesn't really have anything else looking at the variance request as it is right now, barebones, without having the Petitioner present. Mr. Carnahan asked if this matter already denied. Mr. Recupito explained that they had denied the deferral request by the by Petitioner. Discussion ensued.

Mr. Recupito advised that any motion made should include the Findings of Fact in a clear manner.

Attorney Austgen added that another consideration to be used in assessing this matter is from statute case law in determining whether compliance with the zoning ordinance will result in practical difficulties so as to support the variance, courts consider whether significant economic injury will result if the ordinance is enforced; whether the injury is self-created; and whether there are feasible alternatives. He added that these factors are not exclusive.

Mr. Wilkening stated that your budget means nothing. Attorney Austgen countered that is overarching; finances and fiscal impact do not play roles themselves. The petitioner could build a garage within the criteria of the existing ordinance by way of a permit. Discussion ensued.

Mr. Recupito entertained a motion to approve or deny the variance request. None were had, and Attorney Austgen advised that the criteria for a Developmental Variance is in Title XXX (30) of the Zoning Ordinance.

Still, no motions were forthcoming, and Ms. Murr asked if a Board Member could make a motion to defer. Mr. Recupito responded that it is an option. Discussion ensued, and Mr. Kiepura stated that he would like to hear what Mr. Auger has to say.

A motion was made by Mr. Kiepura and seconded by Mr. Bunge to defer this matter to September. Motion carried unanimously by roll-call vote:

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

Mr. Wilkening asked Ms. Murr to share all the dialogue of the discussion with Mr. Auger. Ms. Murr agreed to the same.

**2. 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 the Petitioners Ryan and Amanda Early to allow a house to be built 8 feet, 7 inches from 143rd Place and 20 feet, 6 inches from Elm Street, and for lot coverage over 25 percent.

Attorney Austgen advised that all items are in order for the Public Hearing to be conducted.

Mr. Ryan Early confirmed that the request is as Mr. Recupito stated. He noted that there is presently a building there and that they would be keeping the same building lines. Ms. Murr advised that additional information showing a layout of what the Petitioners want to build is in the meeting packet. Mr. Early added that he has packets for them if anyone would like a copy.

Ms. Murr advised that this is the lot up on the hill. This project has been reviewed by Tim Kubiak, Director of Operations, and Don Oliphant, Town Engineer, and the concern of water running down the hill will be addressed during the permitting review process for any impact on adjacent properties. Ms. Murr advised that there are also three letters of support in the packets as well that were provided to them at their last meeting. Mr. Recupito asked if the plans in this month's packet showing the detailed plans of the house and square footage were in the prior month's meeting packet. Ms. Murr responded in the affirmative.

Mr. Recupito commented that the house appears to have a larger footprint in the original drawing on the GIS photo. Mr. Early explained that the structure would be a 49-foot by 62-foot structure at its widest width and deepest depth. Mr. Recupito noted that there is a lot of information, which is good.

Mr. Kiepura stated that Mr. Kubiak and Mr. Oliphant said that it is okay and the Petitioner is requesting a variance to build a house; any problems with the house being built on that hill would be addressed through the Plan Commission when he brings the plans in for approval. The variances here is on the setback lines of the lot. Right now, we are not really concerned with drainage or if this is the right-sized house. The BZA's concern is if the property is buildable.

Mr. Recupito asked if this is on a lot of record or if it needs to go through a one-lot subdivision process. Ms. Murr responded that this is already a pre-platted lot that would go through the building permit review process, not through the Plan Commission. All building permits are reviewed by Mr. Oliphant for any stormwater impact on anyone else's property.

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Mr. Wilkening commented that he had been asking for a more detailed review from Mr. Kubiak and Mr. Oliphant, which has been provided for this project. He asked if the setbacks on this variance are the same as the existing structure on the property. Mr. Early responded in the affirmative.

Mr. Recupito asked about the difference in the square footage shown on the house plan drawings and the dimensions that are shown. Mr. Early stated that the square footage shown is for the first and second floors of the home; the attached garage's square footage is not included in the livable square footage.

Mr. Wilkening stated that this is extremely thorough information, and the people who wrote the letters of support know the property better than the us. If there was an issue, it would have been in those letters. Mr. Recupito asked if the letters are from adjacent property owners. Mr. Early confirmed the same.

Mr. Bunge asked if discussion occurred at the previous meeting about a retaining wall at the southern adjacent lot. Mr. Early stated that he does not own that lot, but there is a retaining wall on that lot. Mr. Bunge asked if it is in good enough shape. Mr. Wilkening stated that the retaining wall had been discussed and that Mr. Early had made some mention of making it better. Mr. Early stated that there are two retaining walls plus the adjacent retaining wall. He stated that it is the footing of the previous house that the Town had razed. He added that one could say that it is supposedly in good shape.

Mr. Bunge stated that he recalls there being some discussion about the retaining wall at the edge of the property that has not been brought up at this meeting. Mr. Early stated that there are two retaining walls on his property that are 25 feet wide. There is one that is 3 feet, 7 inches that is about 1 foot, 9 inches from the road, and the other is 3 feet, 1 inch about 11 feet from the road. Mr. Wilkening asked if that is the foundation. Mr. Early responded in the affirmative. Mr. Wilkening asked if the foundation will be staying there. Mr. Early stated that it would unless that property goes for up sale. Mr. Wilkening asked if there will be any murals on them. Mr. Early responded in the negative.

Mr. Recupito opened the floor for Public Hearing at 7:33 p.m.

Ray Dashel, 14321 Lake Shore Drive, spoke in favor of the Petition and stated that the garage that was discussed has been there for over 18 years. He commented that he doesn't see it creating a problem for 143rd Place. It is located where there is a 20-foot access road that goes to his property and one other, and it will not interfere with them at all.

Jill Murr

From: Heidi Mees
Sent: Friday, June 25, 2021 2:42 PM
To: Jill Murr
Cc:
Subject: Mandy & Ryan Early

Hi Jill,
I won't be able to make the meeting regarding the new build on Elm St. for Mandy and Ryan Early. However, I wanted to let you know that I have no issues with them building their new home. I believe they will be an asset to the neighborhood. They are extremely nice people and I look forward to having them as my neighbor!

Thank you and have a great weekend!

Heidi Mees
7600 W 143rd Pl.
Cedar Lake, IN 46303

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Jill Murr

From: Leslie Edmonds
Sent: Friday, June 25, 2021 1:35 PM
To: Jill Murr
Cc: amanda early
Subject: Variance: 14323 Lakeshore Dr.

To Whom it May Concern,

I am writing in support of the Early Family being awarded their building variance to build a new home at 14323 Lakeshore Drive. I appreciate how they have cleaned up this property and maintained it over the years; I look forward to them becoming part of our neighborhood with a permanent residence. I am the third generation family member living at this address. My family having lived here when there was previously another home on this property, has never had issues in regards to drainage, access, etc., nor do we anticipate these issues occurring if the Earlys build on this property. Again I support approving the variance for Ryan and Amanda early to build a new home at 14323 Lake Shore Drive.

Leslie Edmonds
14333 Greenleaf Place (aka Elm)
Cedar Lake, IN 46303

Jill Murr

From: Char's
Sent: Monday, July 5, 2021 10:41 PM
To: Jill Murr
Cc: amanda early
Subject: Early's Variance

To whom it may concern,

I am writing in regards to Amanda and Ryan Early's variance at 14323 Lakeshore Drive. I fully support the approval of this variance and look forward to Ryan and Amanda having the opportunity to build their new home next door to my property. I have absolutely no concerns about their property lines, drainage, etc.. I look forward to having the Early family as our new neighbors; they have done a great job cleaning up and maintaining this once vacant property. Please consider my support of this variance when reviewing their request at this week's zoning meeting.

Thank you,
Charlene Dolbeer
14330 Greenleaf Pl
Cedar Lake, IN 46303

Having no one else wishing to comment, Mr. Recupito requested that the letters in favor of the petitioner be included in the minutes as part of the record, closed the Public Hearing, and brought the matter backed to the Board.

Mr. Recupito asked what the lot coverage would be. Mr. Early could not recall, but he believes that it was 33 percent for the lot coverage in the last set of minutes. Mr. Recupito requested a solid number on the lot coverage be provided for all lot coverage variance requests. Ms. Murr agreed to provide the same and

stated that she does have that number for this Petition in her office. Mr. Recupito stated that 33 percent sounds about right to him.

Mr. Recupito asked Ms. Murr if she has anything else on this Petition. Ms. Murr stated that the information that they had requested has been provided, that the picture has been updated showing how the lot is covered, explaining the unique shape of the parcel, and that the requested reviews by Mr. Kubiak and Mr. Oliphant have been completed and provided letters stating the same.

Mr. Recupito asked if the variance is approved and anything comes up along the way during the permitting process regarding drainage that it will be handled. Ms. Murr confirmed the same.

Mr. Recupito entertained a motion.

A motion was made by Mr. Wilkening and seconded by Mr. Jackson to approve the Developmental Variance to allow the Petitioner to build a house 8 feet, 7 inches from 143rd Place and 20 feet, 6 inches from Elm Street with a lot coverage of 33 percent, including the Findings of Fact. Motion carried unanimously by roll-call vote:

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

NEW BUSINESS:

- 1. Peoples Bank – Developmental Variance – Petitioner: Robin Witte/Jeff Jensen of Larson Danielson Construction**
Vicinity: 10205 133rd Avenue

Mr. Recupito advised that the next item on the agenda is a Developmental Variance request by Peoples Bank, SB, to allow parking in the front yards of a corner lot; 133rd Avenue and King Street.

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

Mr. Jeff Jensen, of Larson Danielson on behalf of Peoples Bank, requested that the variance be granted to allow parking in the front yards on the corner lot of 133rd Avenue and King Street. He noted that it matches the existing parking at numerous businesses along 133rd Avenue. They are requesting the parking for customer convenience and accessibility.

Ms. Murr advised that Peoples Bank received Site Plan approval at the July 21, 2021, Plan Commission meeting. They need a variance for parking in the front yards. There is a 50-foot setback off of 133rd Avenue and a 30-foot setback off of King Street.

Mr. Recupito asked for confirmation that there is nothing that would encroach in the setback. Ms. Murr confirmed the same.

Mr. Recupito asked if the petitions heard at the Plan Commission were all cleared. Mr. Wilkening responded in the affirmative and stated that this is straight forward and similar to Tech Credit Union.

Mr. Wilkening asked if the right-out will exit into the right-turn lane right in front of the stoplight. Mr. Jensen responded that the right-out turn is located on the west side of the property towards O'Reilly Automotive. Mr. Wilkening disagreed stating that it is on the east side of the property and asked if the right-out will bring someone out into the actual lane or the turn lane where the stoplight will be. Mr. Jensen responded that it would turn right out into the turn lane. Ms. Murr advised that they have that entrance as far to the west as it can be placed. She noted that it originally was not going to be a right-in/right-out turn only, they were hoping for entrance/exit access in both directions. It was recommended by Mr. Oliphant that it be a right-in/right-out only because of the stoplight that would be installed.

Ms. Murr stated that she anticipates that some people will leave on King Street and utilize the light with the drive-thru being located in the back of the building and advised that the setbacks are similar to those at O'Reilly's and DeMotte State Bank.

Mr. Jackson asked if the parking spots will be the standard 10-foot by 20-foot parking spots. Mr. Jensen responded in the affirmative.

Mr. Recupito asked if Mr. Kiepura agreed with everything that Mr. Wilkening said. Mr. Kiepura said, "Wholeheartedly."

Mr. Recupito opened the Public Hearing at 7:44 p.m.

Todd Carlson, 10810 Bell Street, Crown Point, of Demotte State Bank in Cedar Lake, welcomed the folks at Peoples Bank to town, asked if the Board had addressed the setback line on 133rd Avenue, and stated that the King Street parking is going to be really tight.

Mr. Recupito responded that the Plan Commission handled the setback lines during the Site Plan approval and that they have complied with the Zoning Ordinance for the sizes of the parking spaces. He further stated that he does not know if the Plan Commission granted any waivers for parking. Mr. Wilkening stated that he does not recall any waivers being given by the Plan Commission. Mr. Recupito stated that it looks like the parking will be sufficient and have the correct parking stall sizes.

Having no one further wishing to speak, Mr. Recupito closed the Public Hearing at 7:46 p.m.

Mr. Recupito asked Ms. Murr if she had anything to add. Ms. Murr displayed the property on the GIS map stating that it already shows the dedicated right-of-way space and noted that it is very similar to the layout of DeMotte State Bank across the street from it. Discussion ensued regarding secondary street width.

Mr. Recupito asked if the stoplight would affect any setback lines. Ms. Murr responded in the negative.

Mr. Bunge stated that it looks as though they are proposing 13 parking spaces, with two ADA spots, and the parking required is 10 spots, so they have more than what is required.

Discussion ensued with Mr. Carlson who asked about the setback line from his seat. Mr. Wilkening responded that it will line up with O'Reilly's.

A motion was made by Mr. Wilkening and seconded by Mr. Kiepura to approve the Developmental Variance to allow the Petitioner to have parking in the front yards of a corner lot located on the corner of 133rd Avenue and King Street, including 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

2. Summer Winds – Variance of Use – Petitioner: Summer Winds Commercial, LLC
Vicinity: 9751-9869 Lincoln Plaza Way

Mr. Recupito advised that the next item on the agenda is Summer Winds Commercial, LLC, requesting a Variance of Use to allow outdoor dining at four restaurant business units on a lot in a PUD Zoning District.

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

The Petitioner was not present or have a representative present on his behalf.

Mr. Recupito asked if Ms. Murr has had any communication with the Petitioner. Ms. Murr responded that the notices were mailed out, but she has not heard from him, which is odd.

Attorney Austgen informed Mr. Recupito that he may want to consider moving this item to the back end of the agenda, and if the Petitioner does not show up, he can solicit the appropriate action.

Mr. Wilkening requested to have some conversation about some of the details. Mr. Recupito asked if that discussion could wait. Mr. Wilkening agreed to the same.

Mr. Recupito postponed this item to the end of the agenda in case the Petitioner arrives late.

3. Cedar Lake Storage, LLC – Variance of Use – Petitioners: Tim Porter, et al
Vicinity: 9011 & 9019 West 133rd Avenue

Mr. Recupito advised that the next item on the agenda is for Cedar Lake Storage, LLC, requesting a Developmental Variance to allow them to construct a storage yard using aggregate (gravel) and not blacktop (asphalt) or concrete.

Attorney Austgen advised that all items are in order for the Public Hearing to be conducted.

Mr. Chris Porter was present on behalf of Cedar Lake Storage along with Ryan Marovich of DVG Team. They are requesting to use aggregate or gravel for the storage yard. They were in front of the Plan Commission the previous month for Site Plan approval. By way of the review process, it was discovered that they needed a variance to accept or deny the use of gravel.

Ms. Murr stated that there is a layout of the various materials the Petitioners wish to use in the packet. One of the items brought up at the Plan Commission was the parking lines on the gravel outlining where the various vehicles should park. The BZA had previously approved 119 parking spaces. They are now before this Board seeking a variance to allow a gravel yard. Typical surfacing material for "off-street parking needs to be blacktop or concrete or surfaced with smooth and durable compatible surface material that will remain free from dust or litter particles, and be adequately drained," per the Zoning Ordinance.

Mr. Recupito asked that the loss of parking spots be addressed. Ms. Murr stated that the layout in the new drawing did not come out to 119 spots. Mr. Recupito asked if the new layout does not fit with what was approved previously. Ms. Murr responded that they are allowed 119 parking spaces, but that does not mean that they cannot have less parking spaces.

Mr. Recupito briefly reviewed the history of this Petition for Mr. Jackson starting with the initial approval by the BZA for a favorable recommendation to the Town Council in December 2020. The Town Council kicked it back to the BZA, so they sent another favorable recommendation in January of 2021. Since that time, they have been working with the Plan Commission for other items. Discussions were had at the first couple of meetings about blacktop.

Mr. Recupito asked for confirmation that no waivers were given from the Plan Commission for blacktop. Mr. Wilkening confirmed the same. Mr. Recupito asked if the PUD was not done and that this property is still zoned as M-1. Mr. Wilkening and Ms. Murr responded in the affirmative.

Mr. Bunge requested confirmation that they had discussed the need or practicality of having the property paved. Mr. Wilkening stated that quite a few discussions were had, furthering that he thought that during the initial approval one of the Petitioners said they would blacktop it. He further stated that he thought that was a condition of the approval.

Mr. Recupito stated that he has the minutes of the December 2020 meeting, and the Petitioner had stated that they would pave it. It was not in the motion; however, it might have weighed on some of the decisions that were made here. He added that it did weigh in on his decision.

Mr. Wilkening stated that the Site Plan has changed a little bit since then for the better, but he doesn't know how parking spaces could be marked in gravel. Mr. Porter stated that they would put numbered posts in front of each space or a series of posts with a cable or rope connecting them and labeling each space that way.

Mr. Recupito advised that when the BZA sent a favorable recommendation to the Town Council in January, along with the list of contingencies, there was one to complete these projects. He stated that it is now August and asked if all of it will still be binding going forward since we are still talking about the project. Attorney Austgen advised that it is binding. Mr. Recupito asked if the timeline is one year from Town Council approval. Attorney Austgen confirmed the same.

Mr. Wilkening stated that the future building shown on the Site Plan falls in the 12-month timeframe. Attorney Austgen confirmed it is unless there is some other definition for a specific term.

Mr. Carnahan asked if this variance is just for the right not to pave or install concrete. Mr. Recupito responded that it is somewhat unrelated, but since it is August and still being talked about, he is wondering where it is going to go. It is going into the colder months now and might be hard to pave.

Mr. Recupito asked the Plan Commission members where this was last with them. Mr. Wilkening responded that everything had been dialed in; there was a close vote on the one-lot subdivision. He believes that Ms. Murr had informed them that the legal description for the easement along the west side has been straightened out. Ms. Murr confirmed the same. Mr. Wilkening asked if the legal description has been reviewed by our attorney. Ms. Murr stated that it was reviewed by our engineer to verify that the legal description matches the physical location.

Mr. Wilkening advised that the Petitioner purchased some property to take care of stormwater to the south of the property. He stated that we have no storage facilities in town that are gravel. Ms. Murr advised that the Petitioner did not buy the property, they obtained an easement.

Mr. Wilkening asked if the plat has been modified or is to be modified. Mr. Marovich responded that it would be modified soon. The stormwater will leave the property and go into a pond. There was discussion about the compaction of the stone that is there is so tight that it would be equal to blacktop; however, that does not take care of the dust.

Mr. Marovich stated that to clarify, the pond is also accounting for the homeowner's property as well as some offsite due to the contours. Mr. Wilkening added that he believes the engineer is also considering a basin as it is close to lake and a leaking tank could create havoc; however, he has any correspondence on that.

Mr. Recupito stated that he wanted to understand what changed from December-January, when they were going to blacktop it, to now, where they do not want to blacktop. Mr. Porter stated that it may have been said out of turn as far as saying "We'll do what you want." He further stated that they have through the process of getting a one-lot subdivision, Site Plan approval, and there are other things that were addressed, such as fencing, lighting, and signage. They see it as it is a storage lot and not a parking lot and do not anticipate the traffic of a parking lot. Furthermore, the vehicles will be sitting there for longer periods of time and would do damage to the blacktop. Mr. Porter stated that the gravel will allow more drainage to go into the ground as far as sheet flowing going into the pond.

Mr. Marovich stated that their desire is to have gravel, and there may be confusion as there is parking in the front along 133rd Avenue that will be paved. They are paving the off-street parking and then the yard would be gravel. Mr. Recupito stated that it is required to be paved by ordinance. We need more than the pavement will fade and that the Petitioners don't think it is needed when our ordinance says you do.

Mr. Recupito stated that he knows it has been mentioned that they didn't want to pave because they may want to add other buildings. Mr. Porter stated that they do not know what the future will carry, and they want the facility to accommodate the community, whether it is just parking or more buildings.

Ms. Murr advised that the Petitioners had a different engineer when this was first presented, so that is part of the change. Mr. Wilkening cautioned that things shouldn't be mixed up as it is still the same site and the same thing. Mr. Wilkening addressed Mr. Marovich and stated that there is no confusion; this

switched in the middle from asphalt to gravel. He further stated that he brought that up based on a Site Plan that Mr. Marovich had provided.

Mr. Marovich countered that there was a plan with striping, and during his time, it was never proposed as asphalt or gravel. He had the plan, and as they moved forward, the petitioners told him gravel. Mr. Wilkening stated that the blacktop brought more people to the podium when that discussion was going on, and the original approval was based on certain sized spaces, such as 10 feet by 35 feet, with discussion about campers, open trailers, and other by the engineer who originally proposed the paper that was submitted; all that was part of the approval. Mr. Recupito concurred.

Mr. Recupito opened the floor for Public Hearing comment at 8:09 p.m., and having no one come forward to speak, he closed the Public Hearing and brought the matter back to the Board.

Mr. Recupito stated that when he made his decision to send a favorable recommendation to the Town Council it was based on the lot being blacktopped. It was discussed that it might be a PUD at some point. Attorney Austgen advised that it was, but it was decided to move forward with a one-lot subdivision. Mr. Wilkening stated that it worked out well; the property is cleaned up. There is the one little snag here.

Mr. Recupito stated that he is where he was at a year ago on this, noting that he was okay with the use as long as it was blacktopped and the other contingencies were met. He stated that he has not changed on that, the Petitioner has changed what they want to do on that property.

Mr. Bob Porter requested to speak. Mr. Recupito invited him to come to the podium.

Mr. Bob Porter stated that he started the whole issue. When they first came to the Town for this Petition, he said he would do whatever they wanted him to do. He commented that he would love to have blacktop with no more weeds or dust. He asked if it would be possible to do it in phases instead of all up front.

Mr. Wilkening stated that now that is getting into something different; it was discussed at the Plan Commission. Mr. Recupito stated that we had been down that road before when it was presented as a 5-year plan to the BZA. Mr. Bob Porter stated that he was asked before if he had a timeline, which he did not before, but he does now.

Mr. Wilkening stated that the issue now is the approval is based on 12 months to completion, and that is going to be a tough goal. He is not so sure the phase discussion is a discussion for now. This is about blacktop. Attorney Austgen concurred that blacktop is what the Petition is for. Mr. Wilkening and Mr. Recupito agreed that an extension discussion is not a discussion for this meeting.

Mr. Recupito asked what changed and read what Mr. Bob Porter had stated previously from the minutes, "If we get in here and do whatever we need to do, we will do it. We will pave it. Just tell us what we need to do." Mr. Bob Porter responded, "Paving was not in my head. I didn't know." Mr. Recupito stated that paving was the topic that was being discussed, and he held up the set of minutes he had read. Mr. Bob Porter said, "That was when we first started this whole deal."

Mr. Recupito reiterated that the BZA was in the middle of a paving conversation and stated that is why he is asking again. Mr. Bob Porter said, "Well, now it is in the middle of it." Mr. Recupito stated it was in

December of 2020 and offered to let Mr. Bob Porter read the minutes. Mr. Recupito again asked why it changed and noted that Phillip Regeski (of Engineering & Construction Alliance) stated that it would be paved.

Mr. Wilkening asked where Mr. Regeski is. Mr. Bob Porter responded, "Wyoming." Discussion ensued wherein Mr. Wilkening noted that recently the cost of blacktop was mentioned by Mr. Porter, and that is not one of those findings the Board can consider.

Mr. Bob Porter commented that they looked into blacktop, and there are different grades and thicknesses. Regular parking lots are thinner than they would want, so it is a bigger cost. He stated that he called around for outside boat storage to see what they had, and nobody has any. Mr. Wilkening responded that what little bit of outdoor storage that is not blacktopped is 20-plus years in the making. But any storage facility that's ever been done "in my backyard, for example" is all blacktop. It helps get the water to the right place.

Mr. Wilkening stated in this situation, it's all going that way; however, this keeps changing and evolving a little bit. The discussion about the parking up front and the blacktopping opened up for questioning of what happened to the blacktop when the plan was brought in with all the gravel, which lead to researching minutes, discovery, and things of that nature. Mr. Wilkening further stated that he is not sure completing this in 24 months can be discussed here and that we know what happens when things don't have a completion date.

Mr. Marovich asked if the timing is from the date of the Town Council approval. Attorney Austgen responded in the affirmative. Mr. Recupito also stated it is from the date of the Town Council approval in January 2021. Mr. Marovich then asked if they could come back before 12 months are up and request an extension. Mr. Recupito stated that he needs to ask the expert (gesturing towards Attorney Austgen). Mr. Bob Porter stated that he is not sure how they could squeak it through, but they would like to be able to put some boats there this winter. Attorney Austgen stated, "Squeaking is not going really well." Attorney Austgen said, "You need to bring back a petition for an extension of time if you can't make the 12 months, because at the 12-month expiration, your approval expires."

Mr. Marovich requested clarification of what completion is. Attorney Austgen responded that it is completion of the improvements that you requested.

Mr. Wilkening stated that he would love to see them fill this location with boats for the winter, but he doesn't know how that could possibly happen at this stage of the game. Once it is full, the blacktop may never happen.

Mr. Bob Porter asked that if they could get this approved the way it is here, the two buildings, and behind the building on the east side, there is approximately 150 feet by 75 feet of concrete, if it would be possible to use just that and nothing else. Mr. Wilkening responded that he doesn't think that is something that can be discussed here. It is not on the agenda. Mr. Bob Porter asked how they do that. Mr. Wilkening responded that they would have to take that up with the Town's staff; we are here about the blacktop. Attorney Austgen advised that blacktop is what is listed on the variance application.

Mr. Bob Porter stated that if he had deep pockets, he would love to blacktop it. Mr. Wilkening asked what the cost would be for the blacktop. Mr. Bob Porter responded that it would be about \$350,000 to \$400,000 to get the thickness for what they want to do.

Mr. Recupito stated that if they were coming in with a vacant parcel and wanted to put in this storage facility, there would be no discussion over the blacktop to allow a brand-new build to be gravel. He added that he doesn't see how this differs. We are talking about money once again. We are trying to work with you, but we were told this was going to be paved.

Mr. Bob Porter stated that he said they would do whatever the Board would like them to do. He admitted that he was coming in this blindly and that he has never done this before. He did not know what is expected or how these things go. He was very new and had the wrong engineer. Mr. Wilkening stated that the specifications have been blacktop from the outset. Mr. Porter says he loves the idea and requested that the Board work with them on this and allow them to put the boats in the buildings or to sit in the open storage building with shrink wrap.

Mr. Wilkening recommended that Mr. Marovich come up with a submittal of a game plan to get through this. Mr. Recupito stated that this is like *déjà vu*, and he thinks the initial request is, "hey, can we use the front half and not the back half," he is pretty sure that discussion was had. Mr. Bob Porter stated that he remembers that from the first time when they were unsure. Mr. Recupito reminded that the Board wasn't keen on that and gave approval on all these things being complete before it could be used, and now we're going over this all over again. Mr. Bob Porter stated that a lot of it's been determined.

Attorney Austgen advised, for the record, that ignorance of the law and/or the procedures is no defense. You had an engineer, you had staff, they came in and saw our staff, they processed this, and you got in front of these bodies, both Plan Commission and the Board of Zoning Appeals. It's not a defense that you don't know the rules, number one. Number two, our rules, our specifications are that our parking areas, our storage areas, our stacking areas are paved. So when you say, "Whatever they want," what they want is our ordinance enforced. If your position is, "I'll do whatever you want," whatever they want is what they want, and the law says a duly promulgated zoning ordinance, so let's not have any misconceptions here that there were misdeliveries on basic information.

Mr. Marovich stated that there has been some talk about a phasing plan and a timeline last month at the Plan Commission, that is going to be the next step. Mr. Wilkening stated that it is theirs to phase and that he is not implying approval of such in any way, shape, or form. You are 6 months into something that is much better, but it will be tough to meet that deadline. Mr. Wilkening recommended that Mr. Marovich help the Petitioners come up with some sort of plan. In his experience, once these things are full, it takes months and months to get it straight. Discussion ensued.

Mr. Kiepora stated that if they are going to store the empty boat trailers in the warmer weather, if it is parked on gravel, it will be near impossible to get those moved over or out of the way to have it paved. It is best to work something out.

Attorney Austgen stated that they have an application before them for a waiver of the asphalt. Mr. Bunge asked if it would satisfy our ordinance and the 12-month window of opportunity they have with their Variance of Use if they requested a deferral and came back with a phased plan. Attorney Austgen stated that our ordinance does not provide for that, but if you deemed it appropriate and you could live with that by way of a decision, you could impose that reasonable condition and establish a timeline with possible surety requirements to accomplish what has been suggested.

Mr. Recupito asked if any of what the Plan Commission agreed upon was contingent upon the approval for this Petition. Attorney Austgen responded in the negative and stated that this Petition came subsequent to the Plan Commission's approval. Ms. Murr advised that the Plan Commission decision is not based on the BZA decision. They had approval for Primary Plat, Site Plan, and it was discussed that the submittal probably wouldn't be ready and be able to be reviewed by our engineer in time for Site Plan. The Site Plan is contingent upon the stormwater review. Mr. Wilkening commented that the materials for the water flow would have to be reviewed for the particular product.

Mr. Marovich theoretically asked if this was delayed and they came back with a plan, if that would be handled at the Plan Commission under Site Plan. Attorney Austgen responded that Site Plan requirements do go in front of the Plan Commission. Mr. Wilkening asked about the phasing. Attorney Austgen stated that it could and that it could be a reasonable condition-type decision made by the Plan Commission related to that Site Plan. Discussion ensued.

Mr. Carnahan stated that he has a concern at the Town Council level. Beacon Pointe East was building houses and the dust was so bad that it was going all the way over to Lauerman and going to the conference grounds. Mr. Carnahan stated that he went over there and saw dust on grills and windows. They contracted with us to open a water hydrant and water all the ground until the buildings were built and sod was put in there. He stated that he doesn't want to see a bunch of dust flying all over the neighborhood there and get complaints. Attorney Austgen advised that modern zoning and police powers are designed to prevent that, which is why the Zoning Ordinance has a paving requirement for commercial and/or higher use properties, and that's what this is.

Mr. Kiepura asked if we could request a guarantee that this would be completed in the form of a letter of credit or performance bond. Attorney Austgen advised that they could and probably will, but you don't know what their proposal is. Until you have that, an assessment of surety or compliance guarantee can't really be made. Mr. Kiepura stated that he would feel more comfortable granting any type of phased construction if some sort of monetary guarantee were provided that they would complete it in a timely fashion so the trailers will be moved or the check would be cashed. Discussion ensued.

Attorney Austgen advised that this is a subdivision; it is a one-lot subdivision proposal to the Plan Commission, which is given the conditions of primary approval, and it is hand-in-glove with what your approval is here with the standard. They are kind of married.

Mr. Recupito stated that Mr. Kiepura made a very good point, but as far as the details and numbers regarding that bond or whatever it may be to guarantee this, who will handle that? Attorney Austgen stated that the Town's engineer would check off on an appropriate amount based on what would be required to be installed.

Mr. Recupito asked if the Members are looking for a timeline, something that is on paper and making sure it can be guaranteed that it is done. Mr. Wilkening stated that it needs to be handled by the subdivision. Mr. Wilkening also stated that he agrees with Mr. Kiepura. This plan looks better than the original one, but it is different than the original one. If that is legal, it is what it is. If they come to the Plan Commission with some phasing plan of some kind, that can be looked over and discussed at the next work session, and we'll go from there.

Mr. Recupito asked if these gentlemen draft up a plan, it has to go to the Plan Commission first, noting that this all came down to a variance. Attorney Austgen stated that the Site Plan would be the subject of amendment or revision or final Site Plan, and there is the development standard by which improvements are to be constructed on that improved Site Plan, i.e., asphalt or concrete, or not, as the base for the parking, storage, and related.

Mr. Wilkening added that the decision tonight by the BZA directly affects the Site Plan. Mr. Recupito stated that the bottom line is that he wants to see asphalt there. It is required in the Zoning Ordinance to be paved, and he thinks it should be paved.

Mr. Bunge asked if the Petitioner has to wait a year for another request if we act on this tonight and he gets denied. Attorney Austgen stated that he does unless the plan is substantially different.

Mr. Wilkening asked if that was a motion. Mr. Bunge responded in the negative and stated that he wanted the Petitioners to be aware of that waiting period if it were to be denied.

Mr. Recupito asked the petitioners if they understood. They answered in the affirmative and asked to withdraw or defer their request. Mr. Marovich stated that they need to come up with a phasing plan, and if that's the case, the variance doesn't really affect that because it's going to get paved. Now they are moving to the next step, working on a timeline and the letter of credit or the bond as discussed.

Attorney Austgen asked them to keep in mind that they have heard it all tonight. There is going to be some surety requirement discussed and/or required. Your only decision here or at the Plan Commission would be Site Plan, screening, and the Final Plat. BZA would handle the phasing-in process of the asphalt. It is kind of a waiver for a period of time.

Mr. Wilkening asked that it not be called a phasing of asphalt and asked that it be called a phasing of completion. These guys using the inside for whatever they want to store in there has nothing to do with dust in the parking lot or anything else. Mr. Kiepura agreed on phased construction if it goes in. Attorney Austgen advised that it affects the parking, the increase/egress of the storage.

Mr. Recupito asked the Petitioners what they would like to defer it and develop a plan. Mr. Wilkening stated that it sounds like they are going to do a phasing of construction, and that probably needs to go to the Plan Commission. Attorney Austgen advised that it would be part of Site Plan approval, and this is about materials or lack of or delay of those materials for a period of time.

Mr. Wilkening asked if this should be a deferral. Mr. Kiepura stated that he thinks the decision is asphalt or no asphalt, and with a deferral, in 30 days, nothing is going to change.

Mr. Kiepura asked the Petitioners if they would change his mind in 30 days. Mr. Marovich responded that he suggested withdrawing because it sounds like it has to be asphalt, and now we are at the point that it's going to be do it all at once or phase it, so he is trying to see if that is decided upon fully in the Site Plan.

Mr. Wilkening stated that he would have no problem with his request to withdraw. Mr. Recupito asked if that is what they are requesting. Mr. Marovich stated that it would allow them to navigate the next steps and get a plan for the phasing of completion and a discussion about whether or not to request an extension because of the deadlines coming up January of 2022. He thinks it is going to be pretty close.

Mr. Recupito stated that the deadline is probably the most important thing to be working on right now. Mr. Marovich asked if that is a Plan Commission or BZA request. Mr. Recupito stated that it is BZA, and the Variance of Use is bound to expire in January of 2022.

Mr. Recupito asked for confirmation that they are asking for a withdrawal for now. Mr. Marovich stated that he thinks that makes the most sense. Mr. Recupito asked Attorney Austgen if a motion is needed for the withdrawal request. Attorney Austgen advised that an acknowledgment of the withdrawal should be had on the record and a motion with a second should be taken to acknowledge and accept the same.

Mr. Recupito advised that the Petitioner is requesting a withdrawal and entertained a motion accepting and acknowledging the same.

A motion was made by Mr. Wilkening and seconded by Mr. Bunge to acknowledge and accept the Petitioner's request to withdraw the Petition. Motion carried unanimously by roll call vote.

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

**4. Pyrz – Developmental Variance – Petitioner: Peter and Diane Pyrz
Vicinity: 9723 West 130th Place, Unit A**

Mr. Recupito advised that the next item on the agenda is a Developmental Variance request by the Petitioners Peter and Diane Pyrz to allow Developmental Variance to build a deck over the existing concrete patio with a 6-foot side-yard setback and a 21-foot rear yard setback.

Attorney Austgen advised that all items are in order for the Public Hearing to be conducted.

Mr. Pete Pyrz stated that they would like to have a variance to build a Trex deck with white PVC lattice and railing over the existing concrete patio with a 6-foot side-yard setback and a 21-foot rear-yard setback due to the hardship stemming from his wife's health issues.

Ms. Murr advised that there is a small deck off the back of the house. There are pictures included in the packet of what they currently have and what they would like to have.

Mr. Kiepura asked if all he is wanting to do is make it all the same level as the small wooden deck that is there currently. Mr. Pyrz responded in the affirmative. He stated that he would like to eliminate the existing 4-inch stepdown on what they call a deck for access that the builder installed. It will be the elevation of the slider door with stairs going off the west side.

Mr. Recupito asked if it is a 10-foot by 10-foot concrete pad. Mr. Pyrz responded that it is a 12-foot by 15-foot patio. Mr. Recupito asked if the deck would go right over the footprint of the pad. Mr. Kiepura stated that it will go back to the house under the slider door, and then it will be brought out to the blind spot behind the grill and bring it out over the grassy spot.

Mr. Recupito stated that the drawing doesn't show the deck in relation to the concrete pad. Ms. Murr stated that the tape measure in the one drawing gives you a bit of an idea.

Mr. Pyrz explained that he designed it to have dual handrails so his wife can safely exit and enter the deck in an emergency situation because his wife had a stroke, and her right arm doesn't function. Additionally, she would like usable space off the back of the house where she can enjoy time with their grandchildren. She can't even put a chair or a flower pot out on the existing wooden deck. He has approval from the HOA and the architectural committee.

Mr. Recupito asked if the Board needs to get approval by the Monastery Woods HOA for these projects. Mr. Kiepura stated that as far as he knows, it is not required for the BZA to have approval from the HOA. Mr. Pyrz stated that an HOA member came to his house. Everything was presented to him, and he said it looks awesome.

Mr. Wilkening asked if it will be the same footprint as the patio except for the stairs. Mr. Pyrz responded in the affirmative. Mr. Pyrz noted that he doesn't think existing deck was built to code because there are galvanized caps on the bottom of the 4-by-4s. He is in construction and will build the new deck according to code. Mr. Wilkening asked if he will be able to keep the footprint of the pad that is there now or if he will go bigger than the pad because of the posts. It is not probable that it has a footing, so it will go down if a deck is put on top. Discussion ensued wherein Ms. Murr advised that the proposed deck is all good.

Mr. Recupito asked if this is something that has been granted in this subdivision before. Ms. Murr stated that she did not look into that.

Mr. Kiepura commented that it boils down to the hardship of his wife; let's call on remonstrators and vote.

Mr. Wilkening stated that he just didn't want to get into a situation where the deck has to be another 2 feet larger because of the posts. Ms. Murr stated that he came in for a building permit, and that is what triggered this variance before the Board. This has been reviewed by Mr. Gatto and Ms. Bakker in the Building Department. Mr. Wilkening stated that as long as the Building Department reviewed it, he is good.

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

Mr. Jackson asked if Mr. Pyrz would like another set of stairs off the deck. Mr. Pyrz responded that it is perfect the way it is.

Mr. Recupito entertained a motion.

A motion was made by Mr. Wilkening and seconded by Mr. Jackson to grant the Developmental Variance to allow the Petitioner to build a deck over the existing concrete patio with a 6-foot side-yard setback and a 21-foot rear-yard setback as presented, per the Findings of Fact. Motion carried unanimously.

Mr. Jackson Aye
Mr. Wilkening Aye
Mr. Kiepura Aye

Mr. Bunge Aye
Mr. Recupito Aye

5. Geertsema – Developmental Variance – Petitioner: Katie Geertsema
Vicinity: 9001 W. 133rd Place, Lot 40

Mr. Recupito advised that the next item on the agenda is the Petition for a Developmental Variance by Katie Geertsema to allow a home to be brought in and renovated on Lot 40 in Cedar Lake Mobile Home Community Planned Unit Development with an unknown age. The owner of the property is Cedar Lake MHC, LLC, William Jansma.

Attorney Austgen advised that all items are in order for the Public Hearing to be conducted.

Ms. Katie Geertsema requested to be able to rebuild a modular home that she had bought. Mr. John Geertsema, father of the Petitioner, stated that he does renovations and he saw this unit. The outside looks shabby, but the structure is solid. It has fantastic walls, and the floor joists are good. They would like to take this and turn it into a new building. They can change the walls and take apart anything that is rotted and replace it. They have started rebuilding it. The age of the building is unknown. They estimate investing \$26,000 for this project. It will have brand new vinyl siding on the exterior and new electrical and plumbing throughout. They are salvaging and using what they can.

Ms. Geertsema stated that the newer modular homes fall apart quickly and are made of junk, and she is not interested in investing in something that is made of garbage. The idea was to buy a place that had good bones that could be updated. She provided a blueprint for the Board to look at and wrote all the stats for their review.

Mr. Kiepura asked if this is in place already. Ms. Geertsema responded in the affirmative. Someone had already purchased it and placed it on the lot, but the person duped out of it. When she went to the community, the owner of the place sold her the unit. Discussion ensued.

Mr. Geertsema stated that it was a 2-bedroom unit, and they made it into a one-bedroom unit since it is just her. They cut off 14 feet of it and used all the lumber that was usable to reconstruct the inside. They have plans to remove any of the rotten wood and replace it.

Ms. Murr advised that Mr. Kubiak and Mr. Gatto were looking at this one, and it came to light that those homes moved into the park shall not exceed 30 years of age per PUD guidelines there were updated, brought in, and adopted back in 2016. Looking at the structure, an age could not be found anywhere on the unit. One of the reviewed items on this advertisement was to allow the Petitioner to bring this in and to renovate it with an unknown age

Mr. Kiepura asked if this was there originally or if the petitioner brought it in. Ms. Geertsema responded that the unit was there before she got there. The person who bought it before her brought it into the mobile home community. Mr. Kiepura stated that the next question is why did they violate the PUD. Ms. Murr responded that is why this is a dual request. One variance is to allow Bill Jansma having that unit brought in.

Mr. Kiepura asked what the unit is sitting on. Mr. Geertsema stated that it is sitting on a full concrete slab. Mr. Kiepura stated that it can't be moved then. Ms. Geertsema stated that the wheels have been

removed, but they can be put back on. Mr. Geertsema commented that it has the tongue and the axle still attached.

Mr. Recupito reminded everyone that the variance request is for the age of the unit, which is not to be older than 30 years as agreed upon in a PUD that was negotiated with the Town at some point.

Mr. Wilkening commented that Mr. Jansma and his son-in-law came in here and started this, came back for at least two or three visits with the PUD and Code of Conduct. Everything has to be approved by them. It was so detailed that it even included no dogs left outside after dark on a leash.

Mr. Recupito asked what the intention of the 30-year rule is. Attorney Austgen explained that it was to abate the use. Mr. Wilkening stated that it is not good that this showed up under Mr. Jansma's watch. He further stated that the pictures here, this is three-fourths of the way done, which makes it much newer. Mr. Recupito stated that it will probably look much newer than some of the 10-year-old units there.

Mr. Geertsema stated that he knows the Board Members want the town to look good, and they are going to make this unit look good. Discussion ensued.

Mr. Wilkening stated that he believes there ought to be a review of the other items that are in that community that they don't know about. Attorney Austgen stated that it is possible that we permitted it. This is an obscure law, and we only have one of these in this specialty.

Mr. Bunge asked if there is a log from the previous or present owner of the community of transactions for people bringing units in and out. Mr. Wilkening responded that Mrs. Austgen passed away, but Mr. Jansma originally brought in what was existing and what was the Site Plan.

Mr. Bunge asked if this was an existing mobile home location before the 2016 PUD, wouldn't its location be grandfathered in already. Ms. Murr stated that this unit was not on Lot 40 when the PUD was adopted. Mr. Wilkening asked approximately when it showed up. Ms. Murr responded that it was within the last year.

Multiple simultaneous discussions ensued while Ms. Murr showed the Board Members a current photo of the unit taken earlier in the day.

Mr. Wilkening stated that he thinks what they are doing is fantastic. Mr. Kiepora stated it looks like quality work to him.

Ms. Geertsema stated that the siding is not installed yet as they wanted to put the new roof on first. Mr. Geertsema stated that they put on a new roof that is independent of the old roof. They will take the old aluminum off and scrap it. They have a Pella window and doors. There are no identifiers on the unit that can be used to trace it. Discussion ensued.

Mr. Recupito opened the Public Hearing at 9:32 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 stated that he would not like to see this happen again and advised that any motion should include that exterior is updated.

Mr. Wilkening asked what the timeline that this project will be completed in and specifically asked about being completed in 6 months. Mr. Geertsema stated that they would be done before then.

Ms. Geertsema stated that they were originally supposed to have the project completed by the end of August. Mr. Wilkening asked them to give a specific timeline. Ms. Geertsema and Mr. Geertsema stated that they could be finished in 6 months.

Mr. Recupito stated that he is okay with 6 months for completion if the Petitioner is. Ms. Murr asked if they are wanting a Certificate of Occupancy within 6 months. Mr. Recupito responded in the affirmative.

Mr. Wilkening asked if we had to do anything to get a certificate of authenticity or a title or something of that nature. Attorney Austgen advised that there is nothing that they can do.

Ms. Murr advised that 6 months' time puts this into February. Mr. Recupito stated that he would like to give them a bit more time. Ms. Murr noted that a permit is for one year. Discussion ensued.

Mr. Recupito entertained a motion. Ms. Murr requested clarity in the motion that the completion is the issuance of the Certificate of Occupancy.

A motion was made by Mr. Wilkening and seconded by Mr. Kiepura to allow the Developmental Variance request by Katie Geertsema to allow the Petitioner to bring in and renovate a home on Lot 40 in Cedar Lake Mobile Home Community Planned Unit Development with an unknown age with the contingencies that the completion of the project including the exterior siding is finalized and the Certificate of Occupancy is issued by May 1, 2022, 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. Cedar Lake Property, LLC – Multiple Variances of Use and Developmental Variances
Petitioners: James and Samantha Brooker
Vicinity: 7936 Lake Shore Drive

Mr. Recupito advised that the next item on the agenda is the Petition for a Variance of Use to allow two businesses on a lot in a B-2 Zoning District and to allow outdoor dining not to exceed 4 tables with seating for 4 patrons at each table and a Developmental Variance to allow parking in the front yard and side yards; a total of 30 parking spaces on the lot and to have 1 monument sign not to exceed 60 square feet, 2 building signs not to exceed 32 square feet each, 1 menu board sign not to exceed 60 square feet and directional signage with all signage not to exceed a total of 184 square feet as well as a Variance of Use to allow an existing home to be a vacation/rental home on a lot in a B-2 Zoning District and a Developmental Variance to allow parking in the front and side yard on the existing gravel driveway and to allow the existing accessory structure on the north side yard to remain with a 17.6-foot side-yard setback by James and Samantha Brooker for the property located at 7936 Lake Shore Drive.

Mr. Doug Homeier, McMahon Associates, stated that he is present with Mr. James Brooker. Mr. Homeier explained that Mr. Brooker purchased the old Rivoli's Pizzeria and old existing home property and wish to create a 2-lot subdivision with the house being on one lot to rent out as a vacation/rental home, which is already zoned B-2. They would like to develop a building that would house a Domino's Pizza and possibly a Dunkin' Donuts. The building would be 50 feet by 70 feet with each business having a 25-foot width. They have meet with Jill Murr, Rick Eberly, and Don Oliphant and reviewed the Site Plan, layout, and the required variances.

Attorney Austgen advised that all items are in order for these Public Hearings to be conducted and advised the Board to entertain presentation and Public Hearing for any remonstrances in single fashion and then act on each variance separately.

Ms. Murr stated that this is a 2-lot subdivision. She reviewed the variances that were sought. The first Variance of Use is to allow two businesses on one lot in a B-2 Zoning District. One business is proposed as a drive-thru business, the other is Domino's Pizza. They are asking for outdoor dining with 4 tables allowing 4 patrons at each table in the front of the building. The advertisement was for 6 tables, which has changed. Since the advertisement is for a greater amount, it does cover the request. The Developmental Variance for that lot is to allow for reduced parking as the outdoor dining keeps the business from having the minimum parking spaces. They do have 30 parking spots on that site. They are looking at putting in a monument sign not to exceed 60 square feet, two building signs not to exceed 32 square feet, a menu board sign not to exceed 60 square feet, and directional signage with the total signage not to exceed 184 square feet. Ms. Murr advised that what they are proposing in the two buildings requires 35 standard parking stalls and 2 handicap stalls, the reason for the Developmental Variance for parking.

Ms. Murr further stated that Lot 2 is the home, which is also zoned B-2. The Variance of Use for that lot is to allow the existing home to be a vacation/rental home on a lot in a B-2 Zoning District. The Developmental Variance is to allow parking in the front and side yards of the existing gravel driveway and to allow the existing accessory structure on the north side yard to remain the 17.6-foot side-yard setback.

Mr. Recupito asked if this had been before the Plan Commission. Mr. Kiepora and Mr. Wilkening confirmed the same. They noted that the traffic and other items were hashed out in great detail, including the retaining wall, the parking, the signage, the renovation of the existing home. They also noted that the Petitioners will be changing the angle of the entrance to remove the degree of dropdown which will make pulling out of the property much easier. The outdoor dining includes 6-inch filled concrete posts placed 4 feet apart. There is not room to carve out for more parking due to wetlands.

The Petitioners noted that there would be two to three booths inside the restaurant. The building would be 3,500 square feet in total. The freezers and coolers would be contained within the footprint of the building. They will have concrete posts for safety and provide a nice decorative handrail for aesthetics. They are considering having a pergola over the top as well. They commented that some sort of restaurant would be in located in the other space if Dunkin' Donuts does not go into that building. It was noted that the architect they are using for the building designs many Dunkin' Donuts and is satisfied with the amount of room for stacking in the drive-thru. They added that the engineer has drafted plans for multiple Dunkin' Donuts throughout Northwest Indiana. That engineer ensures that the proposed stacking meets requirements and that the layout is manageable for delivery trucks.

Discussion ensued regarding the proposed parking, the drive-thru impacts, and delivery traffic impacts based on what might go in that second business location.

Mr. Wilkening asked how they propose to handle the crosswalk, Mr. Brooker responded that, short of painting the crosswalk there with a couple signs, he isn't sure if that is something he would handle or that the Town handles. Mr. Carnahan noted that the Town is in charge of the crosswalks and did the one by the Eagles and by Dairy Belle.

Mr. Recupito opened the floor for Public Hearing at 9:32 p.m., and having no one come forward to speak, he closed the Public Hearing and brought the matter back to the Board.

Ms. Murr advised that this is going through the platting process at the Plan Commission and that they have been to two meetings with their concept plan.

Mr. Bunge asked Mr. Wilkening about the entrance being moved as far east as it could go, and Mr. Wilkening responded that there was discussion, but they wish to use the existing apron. It was noted that no restrictions such as right-in/right-out were placed on traffic flow. The Petitioners will take about 10 feet of the apron off to minimize the existing slope. The distance from said entrance to the roundabout was discussed. There is no median between the two lanes of traffic in front of the entrance/exit to the parking lot. There is existing striping in that location. Mr. Wilkening noted that the Plan Commission discussed the traffic concerns at length.

Mr. Recupito read the second variance request to allow parking in the front yard and side yards; a total of 30 parking spaces on the lot and to have 1 monument sign not to exceed 60 square feet, 2 building signs not to exceed 32 square feet each, 1 menu board sign not to exceed 60 square feet and directional signage with all signage not to exceed a total of 184 square feet.

The Petitioners explained that they would meet the requirement on the number of parking spaces if they didn't offer the outdoor seating. They are requesting the additional square footage for signage, noting that the additional square footage would not exceed that of two separate businesses, which was basically doubled since there are two uses in one building. They will need a variance for parking in the front and side yards of the commercial building and in the front yard of the vacation/rental house. They intend to leave the accessory building behind the house on the north end of what will be Lot 2 is 17.6 feet off of the property line, so they will need a variance for that. There will be one drive-thru lane that will serve only one business. Dominos will not have a drive-thru.

Ms. Murr clarified that they will also need a variance to leave the driveway at the house gravel. She advised that based on the sign ordinance, 92 square feet of signage on one lot and only two signs. The requested variance would allow one sign above each door on the front of the business, a monument sign in the front, a drive-thru menu-board sign with a not-to-exceed square footage that also includes directional signage. Ms. Murr advised that there will be two separate establishments. When the Petitioners first came in, they requested two businesses with a drive-thru for each business.

Mr. Wilkening commented that the sign should not be too large or too bright as the business is not on U.S. 41. Mr. Brooker showed the Board a depiction of the signage that he would use. Mr. Homeier stated that the total square footage of 184 square feet includes all the signage that is proposed. The Board requested more detail and less square footage. The Board further requested the use of flood lights instead of a backlit sign. Mr. Brooker agreed to do whatever the Board required and stated that they will not have

a message board. Mr. Brooker stated that he can come back and show the Board exactly what they are planning.

Mr. Recupito stated that since it will be two businesses on one property, he would like it to be something more subdued.

Attorney Austgen stated that petitioners should bring in a presentation instead of saying something to the effect of "Whatever you want, I'll do it." They should make their proposal and hear your comments.

Mr. Kiepura stated that they are here for the variance for the amount/size of signage no the color and what it looks like. Mr. Wilkening stated that he doesn't believe anyone is against the 184 square feet; they are more concerned about what it's going to be. Mr. Wilkening commented that the pictures are great, but perhaps the Board needs an exhibit to see and vote on. Mr. Wilkening asked for clarification on the menu sign. Mr. Brooker stated that the menu board will be located in the back. Discussion ensued regarding directional signage.

Ms. Murr advised that per our ordinance a monument sign of 60 square feet is allowed on the property with an additional 32 square-foot sign. They would only be allowed two.

Mr. Wilkening asked if this could be approved with the contingency of Plan Commission approval of the signage. Attorney Austgen responded in the affirmative.

Mr. Recupito requested that the Petitioners discuss the vacation/rental property. The Petitioners stated that the existing u-shaped driveway is in front of the house will be used as parking; therefore, it is considered parking in front of the building and the side yard. There is also an existing building that is behind the house, a garage or shed, that is 17.6 feet off the property line, which is too close for a B-2 Zoning District, so they are asking a variance to allow the structure to stay. The driveway is gravel, and it is preferred to leave the rustic look of the gravel.

Mr. Homeier asked for confirmation that the driveway must be paved per ordinance. Ms. Murr responded in the affirmative and explained that based on the off-street parking ordinance, anything in the business zoning district needs to have at least five parking spaces and be asphalt, concrete, or compacted gravel.

Ms. Murr displayed the area on the media screen in the room and indicated where the driveway was located. She advised that the driveway is more defined than it was previously. There is a concrete apron on both ends of the driveway with curbing at the roadway.

When asked how about the south end of the drive, which appears to be in the roundabout, Mr. Homeier stated that it is and that they surveyed the driveway in on their drawing. Mr. Homeier advised that there are concrete entrances to that driveway at each end that were provided when the roundabout was installed.

Mr. Recupito asked what issues were raised at the Plan Commission. Mr. Wilkening stated that they had a brief discussion about the home and what the use would be. The gravel drive was not really discussed.

Mr. Wilkening asked what the timeline for renovation is for the vacation/rental home. Mr. Brooker responded that as soon as they get the necessary approvals, they will apply for the permit, and place the order for the siding, which the siding counts have already been done. Mr. Brooker anticipates that it will

be completed by next spring. Mr. Wilkening asked if 12 months would be ample time for completion. Mr. Brooker responded in the affirmative.

Mr. Brooker advised that the home would not be a long-term rental unit. It will be a vacation rental home. He was not planning on laying asphalt on the driveway. Mr. Brooker stated that he wasn't even aware it was something they needed to do; since it was already gravel, he assumed that it was okay.

Mr. Bunge asked if it was a vacation/rental home previously. Mr. Brooker stated that it was a vacation home for the owners.

Mr. Recupito asked if they would be doing anything different with the parking other than just leaving it gravel, such as adding parking spots along the house. Mr. Homeier responded that they had planned for the renters to parallel park along the horseshoe drive, which is what was discussed with the staff. Mr. Brooker added that there is a lot of work that needs to be done, trees to be cleared, and they would like to leave it as is so as not to incur any additional costs since they are spending so much for the upgrades to the house itself. They will be taking out a number of trees, bushes, and scrub trees.

Ms. Murr noted that Mr. Eberly, Mr. Oliphant, and she met with the Petitioner for the staff meeting and that Tim Kubiak and Micelle Bakker provided input on putting all of the requests together.

Mr. Brooker stated that if the Board says it has to be asphalted, they would do that, but they prefer to keep it as a gravel driveway since it is a four-bedroom house that won't have commercial traffic. Mr. Wilkening stated that even if there were parallel parking on that driveway, if it were asphalt, there would not need to be a parking lot.

Mr. Recupito stated that when someone comes in like this to make stuff right, the Board should try to capitalize on it. Mr. Bunge added especially if it is a rental that is an income-producing property. Mr. Wilkening advised the Petitioners to plan to use the whole drive. Mr. Recupito stated that he does not have any problem with the plan. It will be great to see it used for the use, but he would personally like to see asphalt on that driveway. Mr. Brooker stated that if an Internet search is done for houses as vacation rentals in Cedar Lake, there are a number of them all over that have gravel driveways. Mr. Wilkening advised that the B-2 Zoning changes the dynamic of the drive having to be black topped.

The Board advised Mr. Brooker to pave the existing gravel driveway and explained that the zoning is what really changes this from the residential properties for rent that are in residential zoning districts. Mr. Recupito asked if it is a deal breaker if he is required to asphalt the driveway. Mr. Brooker responded that he does not want to asphalt the driveway, but if the Board requires it to move forward, then he would do it. Mr. Wilkening asked about the timeline to do that paving. Mr. Brooker responded that they would probably do it at the same time as the parking lot on Lot 1.

The Board discussed the timeline, and some Members didn't want to require a specific timeline in case this were to get caught up in the Plan Commission or Town processes. Ms. Murr advised that this would be at the next Plan Commission Work Session.

When asked if they had done their renderings yet, the Petitioner, Mr. Brooker stated that they have not yet, and he offered to show them what he had done thus far with regards to how they would like to proceed. They will try to complement the house colors to the commercial building colors. They will use LP Siding with Stucco, which is the general concept they are trying to achieve.

Mr. Wilkening asked Ms. Murr what the property to the southeast of the property in question is zoned B-1. Ms. Murr responded that it is zoned Resort. Mr. Wilkening asked if there will need to be screening between the lots. Ms. Murr responded in the affirmative. Mr. Homeier stated that screening along that lot line was discussed. Mr. Wilkening asked if it would be 6-feet tall of something opaque. Mr. Homeier responded in the affirmative.

Mr. Recupito asked if the signage would be handled at the Plan Commission and if they are prepared to act on this petition. Mr. Wilkening responded in the affirmative. The existing home will be given 12 months for occupancy and an asphalt driveway.

Mr. Brooker stated that when they pull a permit, you get a year off of the permit, so he should have one year after the date the permit is pulled. He added that he is not saying he needs it, but it is typical. Discussion ensued. Mr. Wilkening noted that he has a year from the date of his approval to pull a permit and then another year to complete the work.

Mr. Wilkening stated that Mr. Brooker didn't have a problem with the 12 months to completion. Mr. Brooker stated that he would like the liberty of pulling the permit and having it in his possession. Discussion ensued.

Mr. Kiepura stated that he is comfortable with the timelines provided for by the Zoning Ordinance and asked if the Petitioners would be required to put up a letter of credit. Attorney Austgen advised that it would be whatever the surety requirements would be for any improvements.

Mr. Brooker asked if he puts a bond up what that covers. Attorney Austgen responded that it would be to cover any public improvements that he is responsible for per his plat application. It was noted that it probably would not be a lot.

Mr. Recupito entertained a motion for the variance request to allow two businesses on a lot in a B-2 Zoning District and to allow outdoor dining not to exceed four tables with four seats at each table.

A motion was made by Mr. Wilkening and seconded by Mr. Bunge to send a favorable recommendation to the Town Council for the Variance of Use to allow the Petitioner to have two businesses on a lot in a B-2 Zoning District and to allow outdoor dining not to exceed four tables with seating for four patrons at each table to include 6-inch impact posts, 4 feet on center, filled with concrete, 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

Mr. Recupito entertained a motion for the Developmental Variance to allow parking in the front yard and side yards; a total of 30 parking spaces on the lot and to have 1 monument sign not to exceed 60 square feet, 2 building signs not to exceed 32 square feet each, 1 menu board sign not to exceed 60 square feet and directional signage with all signage not to exceed a total of 184 square feet.

Cedar Lake Board of Zoning Appeals
August 12, 2021 Meeting

A motion was made by Mr. Wilkening and seconded by Mr. Kiepura to grant the Developmental Variance to allow the Petitioner to have parking in the front and side yards, a total of 30 parking spaces on the lot, and to have a maximum of 184 square feet of signage contingent upon Plan Commission approval, 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

Mr. Wilkening stated for clarification that Mr. Brooker has one year's time from the time he gets the building permit. Mr. Recupito stated that the Petitioners have one year to exercise the variance. Mr. Wilkening noted that sticking with that doesn't help get something done.

Ms. Murr asked if this should be contingent upon approval by the Plan Commission. Attorney Austgen responded in the affirmative.

Mr. Wilkening asked if this could be made contingent upon being completed within 12 months of obtaining the permit with no extensions. Attorney Austgen advised that the Board cannot take away due process, but they can deny an extension request.

Mr. Recupito entertained regarding the Variance of Use to allow an existing home to be a vacation/rental home on a lot in a B-2 Zoning District.

A motion was made by Mr. Kiepura and seconded by Mr. Wilkening to send a favorable recommendation to the Town Council for the Variance of Use to allow an existing home to be a vacation/rental home on a lot in a B-2 Zoning District contingent upon plat approval by the Plan Commission, 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

Mr. Recupito entertained a motion regarding the Developmental Variance to allow parking in the front and side yard on the existing gravel driveway and to allow the existing accessory structure on the north side yard to remain with a 17.6-foot side-yard setback.

Discussion ensued regarding the wording of the motion; wherein, Attorney Austgen advised that by leaving out the word "gravel" out of the motion, it would mandate that our laws be followed for paving the existing drive.

A motion was made by Mr. Bunge and seconded by Mr. Wilkening to grant the Developmental Variance to allow the Petitioner to have parking in the front and side yard and to allow the existing accessory structure on the north side yard to remain with a 17.6-foot side-yard setback contingent upon plat approval, 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

Mr. Brooker asked if the Board will require a more real representation of what is planned for signage for the September 1st meeting. He then asked what phase they will be at after that September 1st meeting. Ms. Murr advised that the September 1 meeting is just a work session and that a timeline would be put together for them. She noted after the Work Session, they will go to the Plan Commission Public Hearing for Primary Plat. In a perfect world, the permit would be able to be obtained in October. Mr. Wilkening noted that some of those timelines are mandatory. Ms. Murr concurred.

Ms. Murr advised that the Town Council could consider the Variances of Use at their September 7, 2021, meeting at the earliest. Attorney Austgen noted that this would be a push.

Mr. Brooker asked if it was safe to move forward with an architect and design the building that he will not run into anything that says no that we are not. Attorney Austgen advised that it is not this Board's jurisdiction and stated that everything was preapproved tonight and that they should be happy. Mr. Wilkening advised that Mr. Oliphant will let them know anything they need to know regarding the engineering.

New Business Item 2, Summer Winds Commercial Variance of Use – Continued:

Mr. Recupito asked if a Petitioner for this Petition has shown up yet. No one had. Mr. Wilkening asked who should have been here for this Petition, Mr. Lambert. Ms. Murr stated that it is Mr. Lambert's Petition. Attorney Austgen advised that Mr. Lambert has not shown up for meetings before.

Mr. Recupito asked if the Board is considering deferring this matter to the following month to give Mr. Lambert a chance. The Board agreed. Mr. Wilkening moved to defer. Attorney Austgen asked if there is a notice that the Board wants the Petitioner to give to the people who are entitled to notice of the meeting for the Public Hearing that did not get held. Mr. Recupito asked what he would recommend. Attorney Austgen recommended certified mail to the adjainers and to advertise in the papers again for the September 9, 2021 Public Hearing, which is due process.

Mr. Recupito entertained a motion to include the re-noticing for the Public Hearing on September 9, 2021.

A motion was made by Mr. Wilkening and seconded by Mr. Bunge to defer this Public Hearing until September 9, 2021, and to require the Petitioner to re-notice the new Public Hearing by sending certified mail to the adjainers and to advertise in the newspapers. Discussion ensued. Motion carried unanimously by roll call vote.

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

Ms. Murr advised that she will reach out to Mr. Lambert and ask him to be at the September 9, 2021 meeting.

UPDATE ITEMS:

1. Resolution No. 2021-01 – Board of Zoning Appeals Rules & Regulations

Ms. Murr advised that this item has been previously discussed and it is moving along with the Zoning Ordinance review at the Plan Commission level. It is anticipated to be before the Plan Commission at their September meeting.

PUBLIC COMMENT: None one from the public came forward to comment.

Mr. Wilkening commented about the continuing expansion of the Melody Hill Marina and asked for clarification on that property.

Attorney Austgen asked Mr. Wilkening what he means by clarification. Mr. Wilkening stated that the business has been desolate for years, and then DNR issued more permits, and it has expanded again. According to their social media website and their advertising, they have more boat slips. They have no parking and have two businesses on one property. Nobody can recall it ever being before the BZA or the Plan Commission. Mr. Bunge asked if it is zoned as a resort. Ms. Murr responded in the affirmative. Mr. Bunge stated that it is probably why.

Mr. Wilkening stated that it is now called Melody Hill Marina, not Melody Hill Resort. There are a couple of bits of dynamic here, and if we don't get a handle on the word "marina" pretty soon, we're going to have a big problem. He further stated that he had asked Ms. Murr to look into this. Mr. Kiepura asked where that is at. Mr. Wilkening explained the location right by the Hill Tavern. Mr. Wilkening commented that they tore down the house and put in gravel just to make more parking, which is not in our business guidelines. Discussion ensued.

Mr. Recupito asked Ms. Murr to report any findings to the Board. Ms. Murr agreed to the same.

ADJOURNMENT: A motion to adjourn was made by Mr. Bunge and seconded by Mr. Kiepura. Mr. Recupito adjourned the meeting at 10:36 p.m.

Cedar Lake Board of Zoning Appeals
August 12, 2021 Meeting

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

Nick Recupito, Chairman

Jeff Bunge, Vice-Chairman

Ray Jackson, Member

John Kiepora, 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.*

Cedar Lake Plan Commission: Minutes of the Public Meeting, August 12, 2021