



CEDAR LAKE BOARD OF ZONING APPEALS MINUTES
CEDAR LAKE TOWN HALL, 7408 CONSTITUTION AVENUE, CEDAR LAKE, INDIANA
SEPTEMBER 9, 2021 at 7:00 pm

CALL TO ORDER:

Mr. Recupito called the Board of Zoning Appeals meeting to order at 7:00 PM, on Thursday, September, 9, 2021, with its members attending on-site. The Pledge of Allegiance was recited by all and a moment of silence was held in memory of September 11, 2021.

ROLL CALL:

Members Present: Ray Jackson; Jerry Wilkening; John Kiepura; Jeff Bunge, Vice Chairman; and Nick Recupito, Chairman **Also Present:** David Austgen, Town Attorney; Jill Murr, Planning Director; Ashley Abernathy, Recording Secretary; and Margaret Abernathy. **Absent:** none.

APPROVAL OF MINUTES:

Mr. Bunge made a motion to table the approval of the August minutes until the next meeting. Mr. Kiepura seconded the motion. The motion was passed by roll call vote.

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

Update Item:

1. Feege – 13934 Pickett Way – Use Variance Update

Mr. Recupito advised that the first order of business was 13934 Pickett way which was an update on the variance use. Mr. Michael Feege of 13934 Pickett Way approached the podium. Mr. Recupito asked Mr. Feege how things were going. Mr. Feege stated that things were going good, there had been no issues, and he had done a firearm transfer that day and neighbors are still happy about the idea and wanting to use his services. Mr. Recupito asked how long he had been operating for. Mr. Feege stated that he had been operating for a little over a month due to waiting for approval from ATF. Ms. Murr stated that ATF had called and she provided the Board

members an update on that. Mr. Recupito asked the board if they had any questions for Mr. Feege. None were had. Mr. Recupito thanked Mr. Feege for coming.

Old Business:

1. Auger – Developmental Variance

Owner/Petitioner: Thomas Auger, Jr., 13172 Parrish Ave., Cedar Lake, IN 46303

Vicinity: 13172 Parrish Ave., Cedar Lake, IN 46303

Mr. Recupito advised that the next order of old business was regarding the developmental variance at 13172 Parrish Avenue owned by Mr. Thomas Auger, Jr., of the same vicinity. Mr. Recupito advised that the Petitioner had requested a developmental variance from Zoning Ordinance No. 496, Title XXIII-Accessory Regulations: Section 1A to allow the Petitioner to build a thirty foot by forty foot, twelve hundred square foot, metal post frame building with a height of sixteen feet and a sidewall height of twelve feet. Mr. Recupito asked Mr. Austgen if the legals were in order. Mr. Austgen stated that he was still reviewing this item and that they could proceed and he will advise the board if they are. Mr. Recupito then asked if there was a petitioner here for this item. Mr. Auger then approached the podium.

Mr. Recupito asked Mr. Auger what his petition was. Mr. Auger stated that during the first meeting that the sixteen (16) foot height was gotten rid of due to a remonstrator and they finished with how to get a garage. Mr. Austgen stated that since the legals were in order in May and this was a continuation the legals were in order. Mr. Recupito thanked Mr. Austgen. Mr. Auger stated that he understood that it is a metal building versus a wood building, but the price of wood was sky high when the process was started back in May. He was trying to see how they could get him a garage in his backyard. Mr. Recupito asked Ms. Murr if the building department had anything. Ms. Murr responded in the negative.

Mr. Recupito asked Mr. Auger where he was at with the height and anything else for the garage. Mr. Auger stated that Ms. Murr has paperwork for the plans on the garage and that if it happens, that next year he is getting rid of the windows and doors from the 1970s and replacing the siding to match the building. The buildings would be color coordinated and nice. Mr. Recupito asked if he was still looking at doing a metal building. Mr. Auger responded in the affirmative. Mr. Recupito asked what the height was going to be. Mr. Auger stated that he changed the height to fourteen (14) feet and hoping to have twelve (12) foot sidewalls. They had not been able to discuss this.

Mr. Recupito opened the floor up for board discussion. Mr. Wilkening stated that he felt that they were starting over again. Mr. Auger agreed with Mr. Wilkening. Mr. Wilkening prefers the building matches the house not the house matches the building. Mr. Auger stated he would like to do that. Mr. Wilkening stated that the board could not make decisions based on finances due to it being wrong. Mr. Auger asked if they were wanting him to fix the house first before building

the garage. Mr. Wilkening responded in the negative. He had asked if the building was going to match the house. Mr. Auger responded that it will. Mr. Wilkening stated only in color not in kind.

Mr. Auger asked if going from 129th north is a different section of town that does not matter anymore, as the houses match their garages. Mr. Wilkening stated that he was not getting at them matching, that a post and beam building could be built and still look like a post and beam building. With this post and beam building, with its size and location, he did not like. Mr. Auger stated that half a mile away from him was the same thing. Mr. Auger discussed various properties on Parrish Avenue that the garages were post and beam and matched the house. Mr. Auger asked if the jurisdiction changed going north of 129th that they could do it. Mr. Wilkening stated that the jurisdiction was that each case is handled individually.

Mr. Recupito asked if the buildings Mr. Auger was talking about were pole barns. Mr. Auger responded in the affirmative. Mr. Wilkening stated he knew where Mr. Auger was talking about, that it was near Councilman Foreman's house. Mr. Recupito asked if they were quarter acre lots. Mr. Auger stated that they were bigger than his. He was just trying to get to a point to where he could build.

Mr. Bunge stated that could be stipulation too is that when you get over an acre lot, and that it depends on the zoning district. Mr. Wilkening asked what the property size in which a post and beam building could be built. Mr. Recupito stated if it's over one thousand (1,000) square foot it can be a steel building. Ms. Murr stated that over 1.01 acres an individual could have a steel building. Mr. Auger stated that the only reason for the steel was due to the price of wood. Mr. Wilkening stated he understood what he was saying.

Mr. Recupito asked if there was any more discussion before getting to any remonstrators. None was had at this time. Mr. Recupito asked Mr. Auger to take a seat and asked if there were any remonstrators for or against this variance in attendance or online. None was had. Mr. Recupito then closed the public comment and asked Mr. Auger to approach the podium again.

Mr. Recupito asked Ms. Murr if there was anything more from the building department. Ms. Murr stated no that the lot coverage looked fine and this property abuts the water tower property. Everything adjacent on his side of the street is zoned RT and the other side of the street is zoned R2. Mr. Recupito stated what they were getting at is that having a larger lot can afford a bigger building and a pole building. His size lot it limits what he can have. His neighbors could have buildings like these due to the size of their parcels.

Mr. Auger asked if they can get somewhere so that he could be told what they want and that he will do it. Mr. Wilkening stated that was the problem. He presents them with something. Mr. Auger said he had told them from day one that he had not done anything like this and he was asking for permission. Mr. Wilkening stated he understood but that they don't design things and a stick-built building is a stick-built building. They try to shy away from twelve (12) foot sidewalls because that invites car hoists which invites noise and businesses. A discussion was had about storage, the size of the building, and what the board needs.

Mr. Auger asked what it was that he would be allowed to do. He agreed to reduce the sixteen (16) foot. Mr. Recupito stated that the zoning ordinance allows for an eight hundred (800) square foot building. Mr. Auger states he saw that. Mr. Recupito asked if he was looking to see where they would budge. Mr. Auger responded in the affirmative. Mr. Auger proceeded to discuss his driveway, what he would need to do to put in a garage, and what his neighbors had. He had to remove his shed, that he could not have both a garage and a shed. Mr. Bunge stated that he was allowed one (1) accessory structure without a variance. Mr. Auger stated that he was told that he could not have the garage and the shed since day one (1).

Mr. Recupito asked Mr. Kiepura if he had any comments. Mr. Kiepura stated that he was just listening to all of it. He did not like the metal building, the size of the building, and its location. That this could create a problem further down the road with the sale of the property. He did not like the location, the size, and the metal. Mr. Auger stated with all the duplexes that the owner is the one who has the garage. The owner gets the garage and that the tenant gets nothing. A discussion was had between Mr. Kiepura and Mr. Auger about this. Mr. Kiepura asked Mr. Auger what he could do about the problems outlined. Mr. Auger stated nothing apparently. Mr. Kiepura stated he could shrink it, he could move it, and he could change the material.

Mr. Wilkening asked if the property could be split in half and be called two different condos. Mr. Austgen stated from a construction perspective probably. Mr. Wilkening asked from a legal perspective. Mr. Austgen stated with the re-subdivision of the parcel, perhaps. There would need to be variances for the side yard setbacks and the yard setbacks. Mr. Recupito stated these are all valid points, but that it is a duplex is one hurdle. There are several hurdles to overcome for this item. He had the same concerns as Mr. Kiepura. It was a very small parcel to be putting a building like this on.

Mr. Recupito stated the board was not into design and build. Mr. Auger stated he gets that. He wants them to tell him what they would like for him to put there, and he'll get a design for that. That eight hundred (800) square foot was not a garage. Mr. Austgen stated that the application before them was the one presented in May. What was in front of them was what was applied for, and that they are not to design or re-concept what is in front of them. Mr. Recupito stated they just discuss what is presented in front of them. Mr. Auger was receiving a lot of feedback and where the board is going as far as they would like to see. Mr. Recupito stated that if there is a motion for this to be denied that does not mean that he could not come in with other plans, as long as they differ. He would not be beholden to a one (1) year waiting period, and he could come back in with new plans if he wanted.

Mr. Recupito asked if there were any more comments to be had from the board. Mr. Jackson stated the price of lumbar has come down if Mr. Auger was wanting to revisit that. Mr. Recupito stated this was a board decision of a developmental variance, and asked if anyone would like to make a motion on it. Mr. Bunge asked if there were any other modifications before them other than the fourteen (14) foot height. Mr. Auger responded in the negative. Mr. Recupito asked if

he had a motion. A discussion was had about if Mr. Auger would be able to come back and going through the process again or if he withdrew his petition to regroup and come back.

Mr. Kiepura made a motion to deny the developmental variance due to the various reasons that had been discussed per the Findings of Fact. Mr. Wilkening seconded the motion. The motion passed unanimously by roll call vote.

Mr. Jackson – Aye

Mr. Wilkening – Aye

Mr. Kiepura – Aye

Mr. Bunge – Aye

Mr. Recupito – Aye

2. Summer Winds Commercial – Variance of Use

Owner/Petitioner: Summer Wind Commercial, LLC, 11125 Delaware Pkwy, Crown Point, IN 46349

Vicinity: 9751 - 9869 Lincoln Plaza Way, Cedar Lake, IN 46303

Mr. Recupito advised that the second order of old business was the Variance of Use at 9751 through 9869 Lincoln Plaza Way owned by Summer Wind Commercial, LLC of 11125 Delaware Parkway, Crown Point, IN, 46349. Mr. Recupito advised that the Petitioner had requested the Variance of Use from Zoning Ordinance No. 496, Title XI Planned Unit Development in order to allow for outdoor dining and alcohol, allowing for four tables with four seats each at each restaurant location on a lot in a Planned Unit Development Zoning District. Mr. Recupito asked Mr. Austgen if everything was in order for this item. Mr. Austgen responded in the affirmative. Mr. Recupito asked if a petitioner was present for this item. At this time, Mr. Brad Lambert, managing member of Summer Winds Commercial, LLC, 11125 Delaware Parkway, Crown Point, IN.

Mr. Recupito asked what the petition was. Mr. Lambert stated that as the developers of Summer Winds Plaza have four (4) tenants that are currently in the plaza, Rise & Roll Bakery, Pop's Beef, Glorius Coffee and Jamba Juice, and soon the Dilla, a Mexican Grill. All four of these tenants requested areas for outdoor seating to put out tables so people could have their food and drinks outside. Concrete patios have been poured and fencing has been put around each of these patios. They were advised that there was not that permitted use inside the PUD document. They applied for a variance once they were advised.

Mr. Recupito asked Ms. Murr if the building department had anything. Ms. Murr stated that it was exactly as he had stated. There were fences around the areas that Mr. Lambert had mentioned. She had discussed it with Mr. Tim Kubiak that one of the things to be reviewed would be bollards to make sure those areas were safe and secured. The PUD allowed for the four restaurants, with three having drive-thrus. Mr. Recupito asked if this was just something that was simply overlooked in the PUD negotiations. Mr. Lambert responded in the affirmative. A

discussion was had about the inception of the PUD, that the patios were not presented at the time due to not knowing who was going to be a tenant.

Ms. Murr stated this would reduce the amount of parking in the area by six spaces, and these are highlighted and discussed the various tenants and hours in the PUD. Mr. Recupito stated there are pads there now and asked if they were going to be extended out. The response was in the negative. Mr. Kiepura stated it's already fenced in; he did not think they were going to expand. They were just wanting the okay to fill the inside of the fence. Mr. Lambert agreed with Mr. Kiepura's statement. They had not gotten the okay up front and that Mr. Kubiak told them they did not have the variance approval to use the patio area.

Mr. Recupito stated the plan shows parking spaces and highlighted areas where the parking spaces turn into the patio pad. Mr. Kiepura stated the only thing that he would be concerned about is the bollards, that some sort of bollard would need to be put around the fencing for safety. Mr. Wilkening discussed what was done with the Gelsosomo's Pizza outside patio for bollards. Mr. Wilkening asked how many parking spaces in totality for the complex. Mr. Lambert responded 186 spaces. Mr. Wilkening stated he did not see how losing a few spaces would affect anything. Mr. Recupito stated they were already gone and asked if they were not adding anymore concrete. Mr. Lambert responded in the affirmative. Mr. Wilkening stated that the only patio that was furnished was the one to the Northwest. Mr. Kiepura responded in the negative. Mr. Wilkening asked if they were all furnished. Mr. Kiepura stated there were no tables, but believed that all four areas were fenced. Mr. Lambert responded in the affirmative. The Mexican restaurant was the exception as they did not have anything up yet. A discussion was had about the coffee shop and seating.

Mr. Recupito asked if this was heard at the Plan Commission. Mr. Wilkening responded in the negative. Mr. Recupito asked if there was any more discussion at this time. None was had. Mr. Recupito asked Mr. Lambert to have a seat and if there were any remonstrators for or against this item. None were had. Mr. Recupito asked Mr. Lambert to come back up to the podium. Mr. Recupito stated he had no issues with this just the safety aspect, to make sure that is covered. Mr. Recupito asked if there was any reason the PUD would not allow for this. Mr. Austgen stated that everything in the PUD agreement was negotiated and based upon the site plan and project concept presented. If the Board of Zoning Appeals is favorable that the PUD agreement could be supplemented to add this item. Mr. Austgen suggested to adding an amendment to the PUD, including any detail appropriate from a safety aspect.

Mr. Recupito asked the Plan Commissioners if they had any problems with this item. Mr. Wilkening responded in the negative. This was new retail space, they no idea who would be using it and that outdoor dining is appealing. Mr. Austgen stated this could have been done without a variance of use, that it could have been done by an amendment or supplement to the PUD.

Mr. Recupito stated this would be a recommendation to the Town Council and asked if anyone had a motion. Mr. Bunge asked if the space in front of the to be added Mexican place, how many

tables would be added. It was stated that it was in the request submitted. Mr. Recupito asked Mr. Bunge if he was thinking of parking. Mr. Bunge responded in the negative. Mr. Recupito asked if there were any more questions. Mr. Recupito asked if there was a motion.

Mr. Kiepura made a motion to send a favorable recommendation to the Town Council for a Variance of Use to allow the petitioner to have outdoor dining and alcohol, four tables with four seats each, at each restaurant allotted in the PUD zoning district, contingent upon bollards being installed at each location to prevent accidents per approval of the Building Department for spacing of bollards to the safety standards and make a supplement to amend the PUD per the Findings of Fact. Mr. Wilkening seconded the motion. The motion passed unanimously by roll call vote.

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

New Business:

1. Price Point Builders – Developmental Variance

Owner: Peter and Ashton Blagojevic, 13232 Lakeshore Dr. Unit 201, Cedar Lake, IN 46303

Petitioner: Price Point Builders, LLC, PO Box 1343, Crown Point, IN 46308

Vicinity: 9527 W. 142nd Avenue, Cedar Lake, IN 46303

Mr. Recupito advised that the first order of new business was a request by Price Point Builders, LLC, PO Box 1343 Crown Point, IN, 46308 for a developmental variance at 9527 West 142nd Avenue owned by Mr. Peter Blagojevic and Mr. Ashton Blagojevic of 13232 Lakeshore Drive Unit 201. Mr. Recupito advised that the Petitioner, Price Point Builders, LLC was requesting a developmental variance for a twenty-six-foot front yard setback along 142nd Avenue, a thirty-five foot eight-inch side yard setback along Parrish Avenue on a corner lot in a pre-platted subdivision within a R2 zoning district. Mr. Recupito asked Mr. Austgen if the legals are in order. Mr. Austgen responded in the affirmative. Mr. Recupito asked if there was a petitioner for this item.

Mr. Bruce Young, Price Point Builders, LLC, 12816 Lee Court, Cedar Lake, IN, 46303, and Ms. Camille Schoop, 7260 Madison Street, Merrillville, IN 46410, approached the podium. Mr. Recupito asked for them to discuss their petition. Ms. Schoop stated they were proposing a house to go on the lot and they are asking for those setbacks. Ms. Schoop asked if they received a copy of the plat. Mr. Recupito responded in the affirmative.

Ms. Schoop stated the proposed house would not create any hardships on any of the existing houses. It will conform with most of the surrounding home setbacks that are already established.

Mr. Young stated he had photo copies of the surrounding houses to show the setbacks of the existing houses. Mr. Recupito stated he could hand them out to the members of the board.

Mr. Recupito asked if they had anything else as far as the request goes. Ms. Schoop stated aside from the setbacks no, but they had other reasons. Mr. Young stated there were a couple of thing, that to **grant them this variance is public welfare**, that is there would be no nuisance according to ordinances. The request of variance is for reasonable use of the land. It will increase the home values within a half mile of the area. The driveway will be off of 142nd Avenue, not off of Parrish Avenue. They are ready to go to the bank, so it's something they are ready to start with approval.

Mr. Recupito asked Ms. Murr if she had anything. Ms. Murr stated it was a pre-platted subdivision here and they are combining three (3) lots. Parrish Avenue is an FAU road, so there is a forty (40) foot setback. The proposed setback is thirty-five-point eight (35.8) foot setback along Parrish. Ms. Schoop stated she believed it was four (4) lots. Mr. Young responded in the affirmative.

Mr. Wilkening asked if it was lots fifty-three (53), fifty-two (52), fifty-one (51), and fifty (50). Mr. Young and Ms. Schoop responded in the affirmative. It was half of fifty (50). Ms. Murr stated it would create a ninety-nine-point nine (99.9) foot wide lot and one hundred and four (104) foot deep. The average is about twenty-five (25) by one hundred (100) in this pre-platted subdivision.

Mr. Young states it conforms with all the neighbors that they are forward on 142nd Avenue and they are closer on Parrish Avenue. Mr. Young proceeds to discuss the setbacks of each house and their correlating page on the packet that he handed out to the Board of Zoning Appeals. Mr. Recupito asked if their lot coverage was going to be under twenty-five (25) percent. Ms. Schoop responded in the affirmative.

Mr. Bunge asked Ms. Murr the width of the Right of Way for Parrish Avenue. Ms. Murr responded forty (40) foot setbacks. Discussion was had on if it might potentially be a sixty (60) foot Right of Way due to the width of the road and potential wetlands.

Mr. Kiepura stated it looks like they are asking for a four (4) foot, four (4) inch variance on that side. An affirmative answer was given. Mr. Kiepura is asking if on the 142nd Avenue setback, if that would be in line with rest of the houses down that street. Mr. Young stated it is further back then some of the houses. The house next door is seventeen (17) foot setback, where this house will be twenty-six (26) foot setback. Mr. Kiepura stated they are equal to or greater than the existing houses. Mr. Young responded in the affirmative. It was asked if there was anything else or any questions at the moment. The response was negative.

Mr. Recupito asked for them to have a seat and if there were any remonstrators for or against this variance. None where had. Mr. Recupito asked the Petitioners to step back to the podium and asked Ms. Murr if she had anything else. Ms. Murr responded in the negative, everything was presented to the Board. The rear yard setback was reduced to sixteen and a half (16.5) feet due to the decks. Mr. Young stated the actual house conforms to the twenty-five (25) percent; it is the decks that make it nonconforming. Ms. Murr agreed with this statement.

Mr. Wilkening asked where the setbacks were measured off of Parrish Avenue, from the center. Ms. Murr stated they measured off of the property line not off the center of Parrish. Mr. Wilkening asked about the width of Parrish Avenue. Mr. Recupito stated it looked like sixty (60). Mr. Wilkening asked about the sidewalk guidelines. It was stated the sidewalks would be required. Mr. Kiepura asked if it would be required on two sides. The response was in the affirmative. A discussion was had about sidewalks and the pavement for Parrish Avenue.

Mr. Wilkening asked if this was a single-family home. Mr. Young responded in the affirmative. Mr. Recupito asked what the square footage of the home. Mr. Young stated it was approximately sixteen hundred (1600) square feet on the upper level and fourteen hundred (1400) square feet on the lower level, for three thousand (3000) square feet total. Mr. Recupito asked Mr. Jackson if he had anything for them. Mr. Jackson responded in the negative. Mr. Recupito asked Mr. Kiepura if he had anything. Mr. Kiepura responded in the negative. Mr. Recupito stated if there were no more questions for the Petitioner, he would entertain a motion for this developmental variance.

Mr. Wilkening made a motion to grant the developmental variance to have a twenty-six (26) front yard setback along 142nd Avenue, a thirty-five (35) foot, eight (8) inch yard setback along Parrish Avenue, and a sixteen and a half (16.5) foot setback in the rear on a corner lot in a pre-platted subdivision in an R2 zoning district, per the Findings of Fact. Mr. Bunge asked if the a thirty-five (35) foot, eight (8) inch setback should be a front yard also, since it is a corner lot. A discussion was had on corner lots and the lots having two front yards. Mr. Kiepura asked if sidewalks needed to added into the motion. The answer was negative, as they had to put in the sidewalks to obtain the permit. Mr. Recupito stated there was a motion on the floor by Mr. Wilkening and asked if there was a second. Ms. Murr asked if the motion could be contingent upon the lots being combined into one lot. Mr. Wilkening amended his motion to include the contingency of combining the lots into one lot. Mr. Jackson seconded the motion. The motion passed unanimously by roll call vote.

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

2. Starcevic – Developmental Variance

Owner/Petitioner: Tom Starcevic, 5706 N. Rockwell, Chicago, IL 60659

Vicinity: 7615 W. 142nd Avenue, Cedar Lake, IN 46303

Mr. Recupito advised that the second order of new business was a developmental variance request at 7615 West 142nd Avenue owned by Mr. Tom Starcevic of 5706 North Rockwell, Chicago, IL 60659. Mr. Recupito advised the Petitioner was requesting a developmental variance to allow the Petitioner to build a garage with a height of twenty-eight feet eight inches (28'8");

first floor wall height of twelve feet ten inches (12'10"); size of three thousand four hundred and thirty one square feet (3,431 sq. ft) in a front yard of a corner lot; with a half (1/2) bath and utilities connected to the house on a lot in an R-2 Zoning District with a lot width of 65' at the building line; designate Greenleaf as the front yard with a thirty-two foot (32') setback; a twelve (12') setback off of 142nd Avenue, a rear yard setback of sixty-five feet (65'); and a side yard setback of eight feet (8') contingent upon approval of preliminary and final plat for a one (1) lot subdivision by the Plan Commission.

Mr. Recupito asked Mr. Austgen if everything was in order. Mr. Austgen responded in the affirmative. Mr. Recupito asked if there was a petitioner for this item. Mr. Starcevic of 5706 North Rockwell, Chicago, IL 60659. Mr. Recupito asked if the request was what Mr. Starcevic was wanting. Mr. Starcevic responded in the affirmative. Mr. Recupito asked Ms. Murr if the building department had anything. Ms. Murr stated that the building department has reviewed it, which is where the numbers in the variance request came from, and there was extensive review on this item. The lot coverage between the house and propose garage is about twenty-two (22) percent lot coverage. It is also in front of the Plan Commission for a preliminary plat.

Mr. Recupito asked who designates Greenleaf as a front yard. Ms. Murr responded the Plan Commission can designate a street as a front yard. Mr. Starcevic states for the record, they want to keep their address as the 7615 West 142nd Avenue. If they were to change the address that it would induce hardship on them. Mr. Austgen advised that the Plan Commission makes and names streets; this is an item for the Plan Commission.

Mr. Recupito asked the Plan Commissioners on the Board where they were at with this item. Mr. Wilkening stated the property is finally straightened out; this is his first time viewing the property. Mr. Recupito asked if there was anything needing to be done to this property as far as drainage or anything like this, or if this was pretty much a cookie-cutter one lot subdivision. Mr. Wilkening stated that he has looked at it a few times and has not seen anything of significance.

Mr. Wilkening stated that this looks like an apartment building. Mr. Starcevic stated he had a lot of stuff. Mr. Wilkening stated there are also a lot of windows. He sees the deck and patio doors have been eliminated. Mr. Starcevic stated that is correct. Mr. Wilkening stated he was going to have a bathroom out there. Mr. Starcevic stated that was correct, a half bath on the first floor. Mr. Wilkening asked if there were any plans to finish the upstairs. Mr. Starcevic responded in the negative. Mr. Wilkening asked how was the sidewall height come up with. Ms. Murr stated that came from Mr. Kubiak. A discussion was had about the sidewall height.

Mr. Recupito asked what size garage door was going to installed. Mr. Starcevic responded nine (9) foot garage doors. Mr. Recupito asked if this would be hooked up to the utilities in the home. Mr. Starcevic responded in the affirmative. Mr. Recupito stated when this first came through, he thought that it was going to be a house. Mr. Wilkening stated they had done something bigger at Meyer Manor. A discussion was had about this building.

Mr. Recupito asked Mr. Jackson if he had anything. Mr. Jackson asked what the construction on this building was. Mr. Starcevic responded it would be wood. Ms. Murr discussed the side wall height that was indicated on page 28 of the Board's packets.

Mr. Kiepura asked what the upstairs going to be used for. Mr. Starcevic stated for storage. Mr. Recupito asked if the Board had any more questions for Mr. Starcevic at this time. None at the moment. Mr. Recupito asked Mr. Starcevic to have a seat and asked if there were any remonstrators for or against this variance. Two remonstrators were present in the audience. Mr. Recupito invited them up to the podium.

Ms. Linda Mason, 7604 West 142nd Street, and Ms. Sandra Herron, 14125 Lake Shore Drive, approached the podium. Ms. Mason stated she lives on the property directly north of this property and is concerned that he is building a garage that is twice as big as any house in this subdivision. The property has already been raised from the previous owner and that there are flooding concerns down her driveway. Ms. Mason stated now when it rains, they are flooded out by the property just south of that, it is now coming onto her property. This area is still part of Wilson subdivision. She had been living across from an empty field for fifteen (15) years, and she knew something would be built there eventually. Just not something of the size proposed and that would flood her property.

Ms. Herron stated she has the same issue. She would also want to know the amount of parking for this parcel and would like for them to fix the water issue so that it does not go into her garage. Mr. Recupito asked if there were any more remonstrators, in the audience or online. Ms. Murr stated there were none online, but that she had received an email remonstrating for Mr. Starcevic. Ms. Murr read the email from Karen Kil into the record. This e-mail will be copied into the record at the end of the minutes. Mr. Recupito closed the public portion of this petition and asked Mr. Starcevic to come back up to the podium.

Mr. Recupito asked Mr. Starcevic to address Ms. Herron's parking concerns. Mr. Starcevic stated parking in their area was pretty tight, and they do not have any personal issues with that, as their property has plenty of space for all their vehicles. Mr. Recupito asked if there were any drainage issues brought up. Mr. Wilkening stated this is the first that he has heard of any drainage issues.

Mr. Wilkening stated he believes he discussed the public walking path and it would not be diminished in anyway. Mr. Starcevic stated it would not. Mr. Wilkening asked that they were not changing anything with it. Mr. Starcevic responded in the affirmative. Mr. Wilkening asked if they knew where the property line was. Mr. Starcevic responded in the affirmative and asked if he needed to be concerned. Mr. Wilkening responded in the negative.

Mr. Kiepura stated he says he does not see where the garage is going to be located on the lot. The plat does not show the house or the garage. It way exceeds the ordinance for a garage. Ms. Murr stated because it's two story, each story counts as square footage. A discussion was had about the size of the garage and what size is allowed by his parcel of property. This discussion included the carriage house property, and if Mr. Starcevic submitted a site plan.

Mr. Recupito stated that he agrees with Mr. Kiepura that this is excessive. When he first pulled it up, he thought that Mr. Starcevic was building a house. He has some reservations about it due to the sheer size of it. Mr. Wilkening asked how the preliminary plat does not have the house on it if it was completed in July 2021. Ms. Murr and Mr. Austgen responded that a plat does not have to show a house, as it is not required. Mr. Starcevic states that the house has been existing for a long time. Ms. Murr states since 1937 according to County records.

Mr. Austgen stated they did not need a site plan to determine the petition. Mr. Wilkening stated that it was the relationship between the two is what everyone was after. Mr. Austgen stated he understood.

Mr. Recupito stated he did not think seeing a site plan would sway his opinion. Mr. Starcevic stated it would be an improvement to the area. It will be a new structure; it will add to existing property values. Mr. Recupito stated there was a lot that Mr. Starcevic was wanting to vary from the ordinance, and asked why there is so much that could not be followed in the ordinance.

Mr. Starcevic stated that was why they were in front of the Board is to get the variances to fit the building structure to fit what they were wanting to build. That they went through Plan Commission and trying to work the advice of the town on what they could or could not build, and what would be a reasonable request. That they felt that this is a reasonable request.

Ms. Murr asked Mr. Recupito if she could state something. Mr. Recupito responded in the affirmative. Murr stated that you need a ninety (90) foot building line and that he is asking for a sixty-five (65) foot. It is a long, narrow lot and discussed the building size.

Mr. Starcevic stated they were working off of the Towns recommendations. Mr. Recupito asked what recommendations that he was referring to. Mr. Starcevic stated that when they asked to build this, when they came to the town to see the ordinances, what could they build, what would fit on the property. They have been trying to work with the Town to get this built. Ms. Murr finished discussing the property.

Mr. Starcevic states they have already given the Town three and a half (3.5) feet of their property off of 142nd Avenue to do improvement to the road. Mr. Recupito stated he did not have a problem with the setbacks, but the size of the structure. Mr. Kiepura discussed a fear that he has is that he has electricity, water, and plumbing going to the building, he has garage doors to the east side and the west side, a staircase going up, an entrance door on the west side of both sides. He could visualize a tenant living there sometime down the road. This is something he does not want to see, as it is not zoned for that. Mr. Starcevic stated they had not anticipation of doing anything like that. Mr. Kiepura stated they may have no intention but they could sell it and the next person could have the intention.

Mr. Kiepura stated the other thing was that it is a garage, and the Town does not allow for that size of garage. A discussion was had about the size of the garage between Mr. Kiepura and Mr. Recupito. Mr. Kiepura asked Mr. Starcevic how tall the house was. Mr. Starcevic stated that he

did not know, as it was an existing structure. It was a two-story house, with a roof. Mr. Kiepora asked if this garage was to go between the house and Greenleaf. Mr. Starcevic responded in the affirmative.

Mr. Austgen asked if there were issues with properties on undersized lots, where homes and/or improvements were too close to each other, and issues arise due to not sticking with ordinances. Mr. Austgen discussed this issue at length, with examples in town. Mr. Recupito thanked Mr. Austgen for mentioning this. He knew where he stood on this property and asked if the board had any more questions.

Mr. Wilkening stated he would like to see these two buildings on the property, just not summarized on the agenda. The Town has done buildings of this size before. Mr. Starcevic stated he believed there was other garages of this size built.

Mr. Recupito stated he is not opposed to the building being there, just that the plan does not work. Mr. Wilkening asked if anyone else felt that there needed to be more examining of previous buildings done, and let Mr. Starcevic make some modifications. Mr. Jackson stated he agrees with Mr. Austgen on moving forward. Mr. Recupito stated that this property needed a lot of consideration.

Mr. Recupito asked Mr. Wilkening what he was recommending. Mr. Wilkening stated a little bit more homework, at looking what has been done. Mr. Kiepora stated that just because it has been done does not mean it needs to be done now, and what were the ordinances back then compared to today. He did not see what going back and looking at it was going to do. They have stated what they like and dislike about it, either they make a decision or defer. Mr. Wilkening stated that he wanted to see the relationship of the buildings on the property.

Mr. Recupito asked if there was anything in a site plan that would change their mind. Mr. Kiepora stated he did not know. He has always looked at plans, not just words on papers. He would like to see, but he is not convinced that this size building needs to go on this size property for a garage. Mr. Wilkening asked if it was more the second story on the building, than the size of it. Mr. Kiepora stated the size of the building and definitely the second story with all the items he mentioned before.

Mr. Recupito asked Mr. Bunge his opinion. Mr. Bunge stated he has a lot of the same concerns of Mr. Kiepora, the sheer size of the footprint, size of the structure itself. That it's a two-story accessory building, in a very, very tight congested area. Mr. Starcevic asked if the overall size of the lot allotted for the size of the building. An answer was given in the negative, he's only allowed one thousand square (1000) feet.

Ms. Murr asked if the structure they were referring to in Meyer Manor had a petition in 2019 by Mr. Phipps. Mr. Wilkening stated that sounded correct. Ms. Murr stated she had file, and the building was one thousand eight hundred sixty (1860) square feet. Mr. Wilkening asked how tall was the roof. Ms. Murr stated it was twenty-six (26) feet, thirty-three (33) inches tall. Mr.

Wilkening asked what the size of the property. Ms. Murr stated it was ninety (90) by eighty (80) size lot. It was stated that there was no primary structured. Ms. Murr stated that was correct.

Mr. Recupito asked if it would help anybody to see a site plan. Mr. Kiepura stated he was not going to make him come up with a site plan. Mr. Recupito stated he thought he had one. Mr. Kiepura stated he would have brought it with him then. Mr. Recupito asked if there were any more questions for Mr. Starcevic. No more questions were had. Mr. Recupito stated this would be a board decision and asked if anyone would like to make a motion. No motion was made.

Mr. Recupito asked again if anyone would like to make a motion. No motion was made. Mr. Austgen stated if there was no motion was made this could be put on next months agenda. Mr. Recupito asked if there would still need a motion to defer. Mr. Austgen responded in the affirmative. Mr. Recupito gave one last call for approval or disapproval of this variance. No motion was made.

Mr. Recupito asked if anyone would like to make a motion to defer this item to next month and asked Mr. Starcevic if he had a site plan. Mr. Starcevic responded in the affirmative. A motion was made by Mr. Wilkening to defer the present site plan to the next month. Mr. Kiepura seconded the motion. The motion passed unanimously by roll call vote.

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

3. Kuiper – Developmental Variance

Owner/Petitioner: Jeremy & Michelle Kuiper, 13970 Orchard Dr., Cedar Lake, IN 46303
Vicinity: 8919 W. 141st Avenue, Cedar Lake, IN 46303

Mr. Recupito advised that the third order of new business was for a developmental variance at 8919 West 141st Avenue owned by Mr. Jeremy Kuiper and Mrs. Michelle Kuiper of 13970 Orchard Drive, Cedar Lake, IN 46303. Mr. Recupito advised that the Petitioner was requesting a Developmental Variance to allow the existing accessory structure to remain while the primary structure is constructed and to request an extension of time for building of primary structure. Mr. Recupito asked Mr. Austgen if everything was in order for this item. Mr. Austgen responded in the affirmative. Mr. Recupito asked if there was a Petitioner here for this item. At this time, Mr. Kuiper approached the podium and made an amendment to his current address. Mr. Kuiper stated he is currently at 11555 West 157th Avenue, Lowell, IN 46356. That his petition was for 8919 West 141st Avenue.

Mr. Recupito asked for Mr. Kuiper to explain his petition. Mr. Kuiper stated he was requesting an extension to build a primary structure in the location. In April in 2018, he was granted a variance for a second structure and that building has been finished and inspected. In 2020, that Mr. Kuiper

received notification from the Town that his time to build the primary structure had expired and that it was different from the timeline Mr. Kuiper thought he had. He was here to correct it. He is in the process, he has sold his house, survey has been completed and submitted to the town, and there are stakes in the ground. He is just waiting on securing his financing and getting on contractors lined up. He is hoping to start before the end of the year, or first available in the spring of next year.

Mr. Recupito asked Ms. Murr if the building department had anything at this time. Ms. Murr responded in the negative. Ms. Murr stated that as Mr. Kuiper had explained the timeline extension. He has been in communication with Mr. Kubiak. Mr. Recupito asked if they received a submitted survey. Ms. Murr stated it was a not a permit, but a preliminary plat survey.

Mr. Wilkening asked Mr. Kuiper when he was anticipating occupancy. Mr. Kuiper responded he was hoping within twelve (12) months of receiving his building permit to achieve occupancy. Mr. Wilkening asked what's optimum residence from the permit. Ms. Murr stated that he had not applied for the permit yet, he would need to apply for the permit first. Mr. Kuiper agreed with Ms. Murr. He had not applied for the permit yet and was waiting on finances. Mr. Wilkening asked if he had any plans yet. Mr. Kuiper responded in the affirmative. He has three builders that he was looking at. The only thing that was holding him up was the financing and making sure the contractors could do the work.

Mr. Kiepura asked if they approved this variance tonight, if he would have twelve (12) months to pull his permit. Mr. Kuiper stated that his intention was to get his permit as soon as he was able to. Mr. Kiepura stated he understood that, and asked if legally he had a year to pull the permit. Mr. Austgen responded that that was up to the Board. A discussion was had about establishing a timeline and timeline requirements.

Mr. Recupito asked Mr. Kuiper if he had any variances on the house itself. Mr. Kuiper responded in the negative. Mr. Recupito asked how many acres. The answer was given was four (4). Mr. Kuiper stated he understood that this needs to be done, and he wants to get it done. The only thing that is out of his control is his finances. He has all his preferred contractors lined up and ready to go. His only delay will be if it becomes too cold to dig a hole by the time his financing is in order.

Mr. Recupito asked Mr. Kuiper to have a seat and asked if there were any remonstrators for or against this time. Mr. Richard Brewer, 8940 West 142nd Avenue, approached the podium. Mr. Brewer stated that he lives behind Mr. Kuiper and that he was allowed to build a monstrosity twice the size of his house, about thirty (30) feet behind his house. He was not able to remonstrate at the 2018 meeting, as he was out of state. He did not want that building built that close to his building and any time he looks out his back door, all he sees is the building.

Mr. Brewer stated he spoke to Mr. Kuiper before he broke ground about moving the building. He put a driveway to get in to the building and if the Board ever asked where the water was going to go. Mr. Wilkening stated he was at the meeting and storm water was discussed with the

neighbor to the east and that storm water was discussed in length. Mr. Brewer stated when Mr. Kuiper builds his house, he needs to make sure that he is not putting water on adjacent properties where it was not going before.

Mr. Brewer stated he is asking the Board to give Mr. Kuiper a deadline, not to keep giving him variances. He has to have a house built or his building gets knocked down. They should not keep giving him extensions, as he has already had his two years. He asked that they ensure the water goes where it needs to go, which is to the east of his property. His building is blocking the water from where it needs to go, and he lost a tree last year because the roots were washed out by the water. Mr. Recupito thanked Mr. Brewer for his time and asked if there were anymore remonstrators for or against this item. No more remonstrators were had at this time.

Mr. Recupito asked Mr. Kuiper to come back up to the podium, and asked if the Plan Commissioners had anything occur at their meetings and if storm water needed to be checked at. Mr. Wilkening stated Mr. Brewer is stating that things were not the way that used to be and Mr. Kubiak or an inspector for the town would need to go evaluate it. It was asked if storm water was part of the final occupancy. Mr. Wilkening stated that was true, but to him it appeared it needed to be looked at now.

Mr. Recupito asked if Mr. Kuiper had any insight on this. Mr. Kuiper stated he is greater than thirty (30) foot away from the property line, it was closer to fifty (50) feet away from the property line. As far as he was aware, the site plan and review process will alleviate the drainage and address it as the house is built. Mr. Wilkening asked if it would be the same as it was before the building was built. Mr. Kuiper stated it would be better.

Mr. Recupito stated that his request had no timeline and asked if he had any numbers for the Board. Mr. Kuiper stated that his worst-case scenario is early spring to break ground, but that his goal is as soon as he is able to pull the permit and break ground. Mr. Recupito asked if there were any more questions. Mr. Wilkening asked six (6) months to do what. Mr. Kuiper stated to pull the permit, and that was because that is his worst-case scenario if he could not get anything done this year to start it in spring.

Mr. Recupito asked Mr. Austgen regarding the gentleman who remonstrated and what would happen if deadlines were not met. Mr. Austgen stated the violation of the period or expiration of the time period is enforced by the Board, and their action could include approval or denial of extension requests. On-site remedial measures could be appropriate depending on what has been completed. Mr. Recupito clarified if the enforcement would be on the Board. Mr. Austgen responded in the affirmative. A discussion was had about enforcement of a decision of the Board and what would happen if the timeline is not met. A discussion was also had on COVID and the hardships that it created with commentary from the Board and the remonstrator. As well as, discussing the building of a custom house.

Mr. Wilkening asked Mr. Kuiper if it was safe to say that in eighteen (18) months, he would be pulling an occupancy permit. Mr. Kuiper responded in the affirmative. Mr. Recupito asked if there was a motion for this item.

Mr. Wilkening made a motion to approve an extension of eighteen (18) months from today (September 9, 2021) for time of the primary structure to be occupied with an occupancy permit per the Findings of Fact. Mr. Jackson seconded the motion. A question was asked about what would happen if he does not meet the deadline. Mr. Austgen responded that the enforcement would be whatever is in the zoning ordinances. Mr. Recupito asked if there were any other questions on the motion. No other questions were had at this time. The motion passed unanimously by roll call vote.

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

4. Grzych – Developmental Variance

Owner/Petitioner: Kyle Grzych, 12550 Parrish Ave., Cedar Lake, IN 46303

Vicinity: 12550 Parrish Ave., Cedar Lake, IN 46303

Mr. Recupito asked Ms. Murr about this agenda item. Ms. Murr stated that the advertisement was not sent out by the Petitioner. This item was not ready to go in front of the Board. Mr. Recupito asked Ms. Murr if it would be ready for next months agenda. Ms. Murr stated the Petitioner had not gotten back to her at this time. Mr. Recupito stated that this item was to be removed from the agenda until it was ready.

5. Hammer – Developmental Variance

Owner/Petitioner: Megan Hammer, 14955 Ivy St, Cedar Lake, IN 46303

Vicinity: 14955 Ivy St., Cedar Lake, IN 46303

Mr. Recupito advised that the next order of business was for a developmental variance at 14955 Ivy Street owned by Ms. Megan Hammer, 14955 Ivy Street. Mr. Recupito advised that the petition is a Developmental Variance to allow the Petitioner to build a six- foot (6') privacy fence to be placed on the property line in the front yard of a through lot adjacent to Parrish Avenue. Mr. Recupito asked Mr. Austgen if everything was in order for this item. Mr. Austgen responded in the affirmative. Mr. Recupito asked if there was anyone present for this item. At this time, Ms. Hammer approached the podium.

Mr. Recupito asked Ms. Hammer to discuss her petition. Ms. Hammer stated that she was just wanting to put in a fence on her yard along Parrish, with an eight (8) foot gate in the back to Parrish, she is also doing a diagonal eight (8) foot where the sewer is at to leave access to it from

Parrish. Mr. Wilkening asked if that was to the north of her property. Ms. Hammer responded in the affirmative.

Mr. Recupito asked Ms. Murr if she had anything. Ms. Murr stated that it was exactly what she stated, that she is one of the last properties on her street that does not have a fence on Parrish. A discussion was had on what had taken Ms. Hammer so long on fencing in her property and what material she was going to be using for her fence.

Mr. Recupito asked the board if they had any questions at this time. None was had at this time. A discussion was had about this being one of the last few houses on Parrish Avenue and that she was going to match her neighbors in length. Mr. Bunge asked Ms. Hammer if she was aware if it was a utility easement and if she was aware if it had to come down, the cost to replace it was hers. Ms. Hammer responded in the affirmative.

Mr. Recupito had Ms. Hammer take a seat and asked if there were any remonstrators for or against this time. There were no remonstrators for this item. Mr. Recupito asked Ms. Hammer to come back to the podium. Mr. Recupito asked if anyone would like to make a motion on this item.

Mr. Wilkening made a motion to approve the Developmental Variance to allow the Petitioner to build a six- foot (6') privacy fence to be placed on the property line in the front yard of a through lot adjacent to Parrish Avenue in alignment with her neighbors per the Finding of Facts. Mr. Bunge seconded the motion. The motion passed unanimously by roll call vote.

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

6. Resolution No. 2021 -01 – Board of Zoning Appeals Rules and Regulations

Mr. Recupito advised that the next order of business was for Resolution Number 2013-01 the Board of Zoning Appeals Rules and Regulations. Ms. Murr advised this was being kept on the agenda for moving forward with the Zoning Ordinance Amendment, attempting to tie them together. That the goal is to tie them together and have them in effect for the New Year.

Mr. Wilkening asked if there was going to be a gathering about this in the near future. Mr. Austgen stated hopefully in the near future, that they are looking for a date.

PUBLIC COMMENT:

Mr. Recupito opened the floor up for public comment. None was had at this time.

ADJOURNMENT:

Board of Zoning Appeals
September 9, 2021

Mr. Recupito adjourned the meeting at 9:18 PM.

TOWN OF CEDAR LAKE BOARD OF ZONING APPEALS

Nick Recupito, Chairman

Jeff Bunge, Vice Chairman

John Kiepora, Member

Jerry Wilkening, Member

Ray Jackson, Member

ATTEST:

Ashley Abernathy, Recording Secretary

The Minutes of the Cedar Lake Board of Zoning Appeals are transcribed pursuant to IC 5-14-15-4(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 recorded as either present or absent.

(3) The general substance of all matters proposed, discussed, or decided.

(4) A record of all votes taken by individual members if there is a roll call.

(5) Any additional information required under section 3.5 or 3.6 of this chapter or any other statute that authorizes a governing body to conduct a meeting using an electronic means of communication.

Cedar Lake Plan Commission: Minutes of the Regular Work Session September 9, 2021

The Town of Cedar Lake is subject to the requirements of the American with Disabilities Act of 1990. Individuals with disabilities who plan to attend this meeting and who require certain accommodations in order to allow them to observe and/or participate in this meeting, or who have questions regarding accessibility of the meeting or the facilities, please contact the Town Hall at (219) 374-7400

Jill Murr

From: Karen Kil <karenkil39@gmail.com>
Sent: Thursday, September 9, 2021 4:42 PM
To: Jill Murr
Subject: 7615 W. 142nd Ave

I am unable to attend the meeting tonight. I own the house directly across the street from where Mr. Starcevic wants to build a garage. I know he owns a boat, several jet skis and golf carts and needs storage space for them. I am in favor of improvements to one's property therefore I have no objections to his proposed garage.