



**CEDAR LAKE BOARD OF ZONING APPEALS MINUTES**  
**CEDAR LAKE TOWN HALL, 7408 CONSTITUTION AVENUE, CEDAR LAKE, INDIANA**  
**DECEMBER 09, 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, December 9, 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; and Nick Recupito, Chairman **Also Present:** Jill Murr, Planning Director; and Ashley Abernathy, Recording Secretary. **Absent:** Jeff Bunge, Vice Chairman; and David Austgen, Town Attorney.

Mr. Recupito advised the Board that due to no legal representation present at the meeting, all decisions by the Board will be pending legal review.

**APPROVAL OF MINUTES:**

Mr. Recupito entertained a motion to approve the Minutes of November 10, 2021. A motion was made by Mr. Kiepura and seconded by Mr. Wilkening to approve the Minutes of November 10, 2021. The motion passed unanimously by roll-call vote:

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

**New Business:**

**1. Wahlberg – Variance of Use**

**Owner: S&N LLC**

**Petitioner: Fred Wahlberg**

**Vicinity: 7309-7319 Lake Shore Drive, Cedar Lake, IN 46303**

Mr. Recupito stated the first item of new Business was a Variance of Use by Petitioner Mr. Fred Wahlberg in the vicinity of 7309-7319 Lake Shore Drive. Mr. Recupito stated the Petitioner is requesting a Variance of Use to allow a Residential (R-2) Zoning use on lots zoned Neighborhood Business (B-1) Zoning. Mr. Fred Wahlberg and Mr. Jeff Wahlberg were present on behalf of the petition.

Mr. Recupito asked the Petitioner to explain their petition. Mr. Jeff Wahlberg stated he is interested in acquiring the property. In order to obtain the property, the bank stated they wanted the property to be rezoned residential or a variance to allow for residential living on the property.

Mr. Recupito asked if the Petitioner does not currently own the property. Mr. Jeff Wahlberg stated that is correct as he currently rents the property from S&N LLC and is working on changing the ownership.

Mr. Recupito asked Ms. Murr if she had any comments from the Building Department. Ms. Murr stated the Petitioner is trying to purchase the property and trying to obtain a residential mortgage versus a commercial mortgage. The property had been the Wahlberg Photography Studio and always had an apartment that has been occupied. It has been passed down through the family. This did go to the Plan Commission for Rezone. It was recommended by the Plan Commission to go for a Variance of Use based off of the Comprehensive Plan. Mr. Kiepura commented on the same and stated he believes the bank would work with the Petitioner if the Board grants the Variance of Use.

Mr. Wilkening asked the Petitioner if someone is currently living in the property. Mr. Jeff Wahlberg stated he was currently living in the property. Mr. Wilkening asked if his plans are to fix it up. Mr. Jeff Wahlberg responded in the affirmative. Mr. Wilkening asked the Petitioner if he had a timeline for when the remodel would be complete. Mr. Jeff Wahlberg responded he currently does not as there is not a lot he can do until he physically owns the property. He can then develop a timeline for remodeling. Discussion ensued about a speculated timeline for remodeling and interest in having the outside remodel completed first. Discussion also ensued about the current zoning being in line with the current Comprehensive Plan.

Mr. Kiepura asked the Petitioner for clarification on if he was just going to rent the property and not purchase it. Mr. Jeff Wahlberg responded he is currently renting it and he wants to acquire the property to pass it down in the family.

Mr. Kiepura asked if the Variance is approved, would the Variance carry with the land or the Petitioner. Ms. Murr responded it would carry with the land. Mr. Recupito discussed making it clear in the motion the Variance of Use would maintain with the property versus the Petitioner. Ms. Murr advised the Board if the use as residential were to ever stop for a period longer than 6 month it would revert back to the B-1 Zoning.

Mr. Recupito asked Ms. Murr if the property were allowed to have R-2 Variance of Use, would the R-2 Developmental Standards apply to the property. Ms. Murr responded in the affirmative.

Mr. Wilkening asked if this was going to be a single-family residence. Mr. Jeff Wahlberg responded in the affirmative.

Mr. Kiepura asked what the downstairs of the building would be used for. Mr. Jeff Wahlberg responded the downstairs is currently cold storage, they would make it a livable area for himself. Discussion ensued regarding a potential timeline of 3 years and the potential plans the Petitioner has for the property.

Mr. Recupito discussed if approval is given for using the property as R-2 and being subjected to the R-2 guidelines, having a plan in place would be beneficial.

Mr. Wilkening asked if the Petitioner anticipated owning the property within 6 months. Mr. Jeff Wahlberg responded he hoped so. Mr. Wilkening discussed within 6 months submitting a plan that would fit a 3-

year completion. Mr. Jeff Wahlberg stated he thinks he can do that and that he wants to try to appease the Town.

Mr. Recupito asked if there was any public comment for or against this item. None was had. Mr. Recupito closed the public portion for this item.

Mr. Recupito asked if Ms. Murr had anything further. Ms. Murr stated she believes if the Variance of Use is granted, a permit would need to be applied for within 1 year or the Variance would not be exercised. Mr. Recupito asked if the Petitioners intend to do a remodel to make the building more residential. Mr. Jeff Wahlberg responded in the affirmative. Mr. Recupito advised it could be made a condition of any approval done tonight. Discussion ensued with the Board about having a timeline established before or after sending a potential Favorable Recommendation.

Mr. Recupito asked Ms. Murr if they are requesting to use it as a R-2 Zoning and the Petitioner is already living in the property, what would expire if they do not pull a permit. Ms. Murr advised the Petitioner is stating he is going to fix the property up as a residential property and use it as a residential. If he does not use apply for a permit to do any repairs it would just revert back to the current zoning. Discussion ensued about the property having a history of always being used as residential and if a permit is not pulled the zoning would revert back to the B-1.

Mr. Recupito entertained a motion for this item. A motion was made by Mr. Wilkening and seconded by Mr. Kiepura to send a Favorable Recommendation to the Town Council for the Variance of Use to allow a special use of a R-2 Zoning on a B-1 Zoning property to remain as a single-family residence with the contingency that plans are to be submitted within 6 months of the approval and to be complete with the remodeling within 36 months with all the Finding of Facts. The motion passed unanimously by roll-call vote.

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

Ms. Murr asked for clarification on the submission of the plans; is it to the BZA or the Building Department. Mr. Wilkening responded to the Building Department.

## **2. Cedar Lake Storage – Special Use Variance**

**Petitioner: Cedar Lake Storage LLC**

**Vicinity: 9019 West 133<sup>rd</sup> Avenue, Cedar Lake, IN 46303**

Mr. Recupito stated the next item of business was for a Special Use Variance by Petitioner Cedar Lake Storage LLC in the vicinity of 9019 West 133<sup>rd</sup> Avenue. The Petitioner is requesting a Special Use Variance amendment to allow the Petitioner an extension of time to complete the projects consistent with the phasing timeline approved by the Plan Commission with their Site Plan. Amending the time of one year to complete the projects to complete Phase 1 by June 30, 2022, and Phase 2 by September 15, 2024.

Mr. Chris Porter, present on behalf of the Petitioner, stated they are requesting an extension for the Special Use Variance to coincide with the approval they received from the Plan Commission for their Site Plan. Phase 1 is to be complete by June 30, 2022, and Phase 2 is to be completed by September 15, 2024.

Mr. Recupito asked Ms. Murr if she had any comments for this item. Ms. Murr stated in January of 2021 their variance was approved and one of the contingencies put on the approval was completion of the project with 1 year. In order to complete the project, there was a phasing schedule. To prevent their use from expiring to have the storage facility, they would like it to line up with the completion timeline of the paving and the improvements approved with the Site Plan.

Mr. Recupito asked Mr. Kiepora or Mr. Wilkening if they would like to add any information. Mr. Wilkening stated they have until June 30 to complete Phase 1, including blacktop. The use of only hard surface under roof is still in effect.

Mr. Recupito asked the Petitioner if the entire property was going to be blacktopped. Mr. Porter responded in the affirmative. Mr. Recupito commented receiving blacktop had been a sticking point for him when they got their last approval and asked if Phase 1 would be the roadside blacktop and a drainage area. Ms. Murr responded in the affirmative. Mr. Recupito asked if the second phase would be finishing the paving along the back half of the lot. Mr. Porter responded in the affirmative.

Ms. Murr advised the Board there is a Letter of Credit from Cedar Lake Storage for the improvements to be completed within the timeline.

Mr. Jackson asked the Petitioner what the timeline was for the blacktopping. Mr. Porter stated Phase 1 is to be completed by June 30, 2022, and Phase 2 by September 15, 2024.

Mr. Recupito asked if there was any public comment for or against this item. None was had. Mr. Recupito closed the public portion for this item.

Mr. Recupito entertained a motion for this item. A motion was made by Mr. Kiepora and seconded by Mr. Jackson to send a Favorable Recommendation to the Town Council to allow for the Special Use Variance amendment to allow an extension of time to complete the projects consistent with the project phasing timeline approved by the Plan Commission with their Site Plan, amending the time of one year to complete the projects to complete Phase 1 by June 30, 2022, and Phase 2 by September 15, 2024 with the Finding of Facts. The motion passed unanimously by roll-call vote.

Mr. Jackson	Aye
Mr. Wilkening	Aye
Mr. Kiepora	Aye
Mr. Recupito	Aye

### **3. Sine – Developmental Variance**

**Petitioner: Richard & Kristine Sine**

**Vicinity: 12725 Maple Street, Cedar Lake, IN 46303**

Mr. Recupito stated the next item of business was for a Developmental Variance requested by Petitioners Mr. Richard Sine and Ms. Kristine Sine in the vicinity of 12725 Maple Street. The Petitioner is requesting a Developmental Variance to allow for the building of an addition with a 1,100 square foot attached garage in an R-2 Zoning District.

Mr. Richard Sine and Ms. Kristine Sine were present for the petition. Ms. Sine stated they are looking to add a 3-car garage with additional living space to a house they purchased on Maple Street.

Mr. Recupito asked Ms. Murr if she had any comments for this item. Ms. Murr advised the existing R-2 Zoning allows for an 864 square foot garage. With the garage being a 3-car garage and 1,100 square foot garage is what brings the petition in front of the BZA. The Petitioner meets setback requirements and lot coverage is only 17.1 percent. The Petitioner acquired other parcels in the area to make a larger lot.

Mr. Wilkening asked if the Petitioners own Lots 42, 41, 40, and 39. Ms. Murr responded in the affirmative and stated they also own Lot 13.

Mr. Kiepura asked where the addition was going to go. Ms. Sine stated it would be along the front of the property and tie onto the existing structure.

Mr. Kiepura asked why they were asking for that size garage. Mr. Sine stated they have 3 jeeps, their daughter's car, dirt bikes, and various equipment. There is nowhere to park on the street due to the street being narrow.

Mr. Wilkening asked if they currently had any garage. Mr. and Ms. Sine responded in the negative.

Mr. Recupito asked Ms. Murr with the garage being attached, would they still have the option of having a detached accessory structure. Ms. Murr responded as long as they do not exceed the maximum lot coverage, they could.

Mr. Recupito asked what size garage doors were they going to have for the garage. Ms. Sine stated they had not discussed garage door sizes yet. They are still waiting on items back from the architects.

Mr. Wilkening commented the Petitioners cannot have sidewalls higher than 10 feet for the garage, otherwise they would need another variance. Mr. Recupito commented on the same. Discussion ensued on the sidewall height and the sidewall height of the first floor versus the whole addition.

Mr. Recupito asked if the second level will be incorporated into the living space. Ms. Sine stated it would be like a tri-level house without a rec room. All the bedrooms will be over the garage and the main floor will be an open concept living room and kitchen, with the BZA's approval.

Ms. Murr advised the Board Maple Street does dead end, there is limited parking on the street, and allowing the garage would allow for cars to be taken off the street.

Mr. Wilkening asked what the timeline is to have everything completed. Ms. Sine stated they are looking to break ground in the spring.

Mr. Recupito asked if there was any public comment for or against this item. None was had. Mr. Recupito closed the public portion for this petition.

Mr. Recupito asked Ms. Murr if she had any further comments. Ms. Murr responded when the Petitioners initially applied for their Building Permit, the size of the garage is what created the need for a Developmental Variance request. If the updated, proposed Zoning Ordinance passes, this would not have had to come in front of the BZA.

Mr. Recupito asked Ms. Murr with the proposed changes to the Zoning Ordinance, what would the change be. Ms. Murr stated the Ordinance would change from allowing an 864 square feet of garage space in an R-2 Zoning District to 1,100 square feet.

Mr. Recupito entertained a motion for this item. A motion was made by Mr. Wilkening and seconded by Mr. Jackson to approve the Developmental Variance to allow for the building of an addition with a 1,100 square foot attached garage in an R-2 Zoning District with the Finding of Facts. The motion passed unanimously by roll-call vote.

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

#### **4. Horton – Developmental Variance**

**Petitioner: Cheri Horton**

**Vicinity: 14425 Dragus Drive, Cedar Lake, IN 46303**

Mr. Recupito stated the next item of business was for a Developmental Variance request from Petitioner Ms. Cheri Horton in the vicinity of 14425 Dragus Drive. The Petitioner is requesting a Developmental Variance to replace an existing fence in the front yard setback of a corner lot along Riskin Road.

Ms. Cheri Horton stated the fence in her yard is an existing fence and she did not know it was a problem. She is located on a corner lot and the way the fence had been constructed it followed the property line. Her neighbors have not had a problem with it and they have built on her property.

Mr. Recupito asked if she stated her neighbors have built on her property. Ms. Horton responded in the affirmative and stated they have a shed and two trees on her property. Discussion ensued about having her neighbors on the property.

Mr. Recupito asked if she was just replacing her existing fence. Ms. Horton responded in the affirmative and stated the fence was originally built around 22 years ago.

Mr. Wilkening asked if this was a fence in the front yard. Ms. Murr responded in the affirmative and the fence was originally installed in 1993. She pulled the original permit and the application. When the fence was originally constructed, they followed the line of the house versus the building line. Multiple discussions ensued at the same time.

Mr. Wilkening asked if the new fence was going to be in the same exact location as the existing fence. Ms. Horton responded in the affirmative.

Mr. Kiepura asked if she was here because of the small triangle indicated on the plat. Ms. Murr responded in the affirmative and stated the fence crosses over the building line. Mr. Gatto reviewed the permit and is the one who gave her the permit to bring to the BZA. Herself and Ms. Bakker found the original permit with the original survey.

Mr. Kiepura asked what happens if it is not approved. Ms. Murr stated she would have to move it onto the building line.

Mr. Recupito asked if there is a reason if she had to put it on the building. Ms. Horton responded it would expose the underside of her porch and she cannot move her porch.

Ms. Murr advised there would be no negative impact to line of sight on the corner.

Mr. Recupito asked if there was any public comment for or against this item. None was had. Mr. Recupito closed the public portion for this petition.

Mr. Recupito asked Ms. Murr if she had any further comments for this item. Ms. Murr responded in the negative.

Mr. Recupito entertained a motion for this item. A motion was made by Mr. Kiepura and seconded by Mr. Wilkening to approve the Developmental Variance to replace an existing fence in the front yard setback of a corner lot along Riskin Road with the Finding of Facts. The motion passed unanimously by roll-call vote.

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

#### **5. Bowman – Developmental Variance**

**Petitioner: Darrin Bowman**

**Vicinity: 13505 Dewey Street, Cedar Lake, IN 46303**

Mr. Recupito stated the next order of business was for a Developmental Variance request by Petitioner Mr. Darrin Bowman in the vicinity of 13505 Dewey Street. The Petitioner is requesting a Developmental Variance to allow for the replacement of a previously removed chain link fence and install a 6-foot chain link fence in the front yards of a through lot; setback 1-foot to 3.5 feet along Dewey Street and Lee Street.

Mr. Darrin Bowman stated when he purchased the property, the house was abandoned and the fence was filled with overgrowth. When he removed the fence, he did not know he would need a permit or a variance to replace the fence.

Mr. Recupito asked if the fence was no longer there. Mr. Bowman stated some of the poles are still in existence, but the chain link fence itself is gone.

Mr. Recupito asked Ms. Murr if she had any comments for this item. Ms. Murr responded this is an older home, she was able to find an image on Lake County Records that shows an existing fence in the front yard. She included this in the meeting packet. The Petitioner provided a survey from 2019 that shows a fence was existing on the south property line and a chain link fence on the north property line. It does not show a chain link fence on either street. Ms. Murr described where the fence posts had previously been on Lee and Dewey Street.

Ms. Murr advised Dewey Street is a 10-foot Right of Way and Lee Street is a 12-foot Right of Way.

Mr. Kiepura asked if the lot is a through lot. Ms. Murr responded in the affirmative and it is used as a through lot.

Mr. Recupito asked about what type of gates the Petitioner is thinking of. Mr. Bowman stated he is thinking of installing a slide gate. Mr. Recupito asked what sides would he have the gates put on. Mr. Bowman stated on the north corner along Lee and Dewey.

Mr. Kiepura asked if he was wanting to replace the fence with a chain link fence. Mr. Bowman commented he would like to use a chain link because he wants to keep his property open to what limited view he has.

He wants to keep his property safe due to some of his property being broken or stolen and individuals in the area using his driveway for parking.

Mr. Kiepura asked if in the Ordinance it is stated that a chain link fence is not allowed in a front yard. Ms. Murr responded in the affirmative and that is a reason for one of his variance requests to put in a chain linked fence. The other reason he is in front of the BZA is the setbacks of the proposed fence.

Mr. Bowman discussed that the south fence that still exists goes within a foot of the road.

Mr. Jackson asked what the size of the original fence. Mr. Bowman stated he believes it was a 5-foot fence. He asked for a 6-foot fence, but he would match the 5 feet.

Mr. Wilkening asked Ms. Murr if there had been any comment received from Public Officials due to the narrow roads and setbacks. Ms. Murr responded in the affirmative and stated she had received an e-mail from the Fire Chief and was going to read it during remonstrations. Mr. Recupito indicated to read it during remonstrations.

Ms. Murr asked Mr. Bowman if the property is his primary residence. Mr. Bowman stated this is where he intends to live eventually, but it is not his current primary residence. Mr. Jackson asked if the residence was currently empty. Mr. Bowman stated that was correct.

Ms. Murr advised the Board to review one of the pictures that was located on the iPads in order to see a picture of the existing fence posts.

Mr. Recupito asked if approval is given would all the posts be replaced with new posts. Mr. Bowman stated that was his intention.

Mr. Recupito asked if there was any public comment for or against this petition. Ms. Murr stated she had some correspondence e-mailed to her by Fire Chief Wilkening and Mr. Jacob Lordo, both will be included in the record.

Ms. Murr also stated Mr. Gatto advised her that he had concerns there had been an open permit from 2020 to do remodel improvements that has had no inspections done. There are two accessory structures on the lot, one was existing and the other never had a variance for it. Both of them are in the setbacks and one was moved from its original location.

Mr. Recupito asked if there were any further comments. There was no more public comment and Mr. Recupito closed the public portion for this item.

Mr. Recupito asked Mr. Bowman if he had any comment or if he would like to add to what was said. Mr. Bowman stated he was not aware for the shed he would need a variance. It is only temporary and used to store lumber. Once he is finished with it, he is planning to replace it with a garage and get rid of both sheds. Regarding inspections, an inspector was there and inspected the inside. The only thing he got told was wrong was there had been no headers over the windows which he planned on changing and then COVID disrupted his plans for that.

Mr. Recupito asked Ms. Murr if the permit is expired. Ms. Murr responded in the affirmative.

Mr. Bowman stated he was contacted in June and was told he was going to be contacted in November. He had not been contacted.



Mr. Recupito asked Ms. Murr if Chief's problem with the setbacks had been with trying to get equipment up in the area. Ms. Murr responded in the affirmative. Discussion ensued about Fire Chief's correspondence and if a specific distance from the road was included in the e-mail.

Mr. Bowman discussed needing specific setbacks for the garage and asked if there is a distance between buildings and a fence. Mr. Recupito and Mr. Wilkening indicated it was just the property line.

Mr. Kiepura discussed the Ordinance for chain link fences and asked if a coated chain link fence could be installed. Mr. Recupito stated it could not be a chain link fence on a road. Mr. Kiepura commented the Petitioner had the request to put it in the front yard setback and commented if it is approved to have the Petitioner use the coated chain link fence. Discussion ensued about where a chain link fence is allowed in the current and future Zoning Ordinance.

Mr. Kiepura stated he does not have a problem with the chain link fence, but he would want it to be coated and for the distance it would need to be from the road for a fire truck.

Mr. Wilkening commented he does not agree with the petition as it is presented, requesting the 6 feet height and increasing the issue for Public Safety vehicles in the area. He does understand the Petitioner wanting to keep his property safe.

Mr. Recupito discussed agreeing with both Mr. Kiepura's and Mr. Wilkening's points and stated he did not agree with the 6-foot height request. Mr. Bowman stated he asked for 6 feet because he did not know if he could get 5 feet or if he was approved for 6 feet and went with 5 feet he would be in compliance. Discussion ensued regarding the height of the old fence.

Ms. Murr discussed the current Zoning Ordinance for a fence installation on a through lot, including the current height, make, and setback restrictions.

Mr. Recupito advised the Petitioner they would like to see him keep his property safe with a fence. Mr. Bowman commented the problem was he tore down the old fence.

Ms. Murr advised the Board if they were to consider this petition, the shed on Lee Street is too close to the road and it appears to be in the line of sight on the road.

Mr. Kiepura asked if the issues that were present tonight were the distance from the road, the make of the fence, and the height. Mr. Recupito stated he does not have a problem with the make, and he likes the look of the black chain link fence.

Mr. Wilkening stated he would like to make a motion to not allow the Petitioner to replace a previously removed chain link fence and install a 6-foot chain link fence in the front yards of a through lot; setback 1-foot to 3.5 feet along Dewey Street and Lee Street with the Finding of Facts. Mr. Recupito asked if there was a second for the motion. Motion fails due to lack of a second for the motion.

Mr. Kiepura asked the Petitioner about requesting a deferral for a month or two with upgraded information that is acceptable to the Board would that be better than just denying the Petitioner. Mr. Recupito stated that is a possibility. Discussion ensued about the potential of the Petitioner requesting a deferral.

Mr. Kiepura asked Ms. Murr for clarification on if the Petitioner has outstanding violations. Ms. Murr responded in the affirmative. Mr. Kiepura asked if they would be remiss in approving something without the violations being taken care of. Ms. Murr stated that would be a Board decision.

Mr. Bowman asked for clarification on the violations, other than the shed. Ms. Murr stated the expired permit, shed on the property without a permit, shed that has been moved within the setback on Lee Street. Mr. Bowman stated the shed was just turned, but did not change the distance from the road.

Mr. Recupito advised the Petitioner on getting those corrected and stated the options are a deferral or another motion is made. Mr. Bowman requested a deferral to February 2022.

Mr. Recupito entertained a motion for this item. A motion was made by Mr. Kiepura and seconded by Mr. Wilkening to defer this item until the February 2022 meeting. The motion passed unanimously by roll-call vote.

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

**6. Tonn & Blank Construction – Developmental Variance**

**Owner: R.M. Teibel & Associates, Inc.**

**Petitioner: Tonn & Blank Construction**

**Vicinity: 6831 West 133<sup>rd</sup> Avenue, Cedar Lake, IN 46303**

Mr. Recupito stated the next order of business was for the Developmental Variance by Petitioner Tonn & Blank Construction in the vicinity of 6831 West 133<sup>rd</sup> Avenue. The Petitioner was requesting a developmental variance to allow the Petitioner to have additional parking in the front yard.

Mr. Ross Warner, present on behalf of the Petitioner, stated they are wanting to put an addition onto the existing building and due to the parking in the front yard, they are requesting a variance for additional parking.

Mr. Kiepura explained the Petitioner wants to build an addition on the medical center to the east. This would add additional parking. They are present in front of the Plan Commission as well with their Site Plan.

Ms. Murr advised that page 26 of the packet presented to the BZA contains a rendering that shows where the additional parking will be installed. When the original building was built, there was permission to have parking in the front yard setback. The discussion in the Meeting Minutes had referenced a specific Site Plan provided during that meeting. Due to the addition, they need some additional parking, which is the reason for the request.

Mr. Recupito asked if this additional parking would be sufficient. Ms. Murr responded in the affirmative.

Mr. Recupito asked Mr. Wilkening or Mr. Kiepura if they foresee any potential issues at the Plan Commission for this item. Mr. Wilkening responded in the negative.

Mr. Recupito asked if there was any public comment for or against this item. None was had. Mr. Recupito closed the public portion of this item.

Mr. Recupito entertained a motion for this item. A motion was made by Mr. Kiepura and seconded by Mr. Wilkening to approve the Developmental Variance to allow for additional parking per the Site Plan dated October 1, 2021, with the Finding of Facts. The motion carried unanimously by roll-call vote.

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

### **Old Business**

#### **1. Wiers – Variance of Use & Developmental Variance**

**Owner: John & Darlene Boersma**

**Petitioner: Jeff Wiers (Electric Power Solutions, LLC)**

**Vicinity: 12828 Wicker Avenue, Cedar Lake, IN 46303**

Mr. Recupito stated the first order of Old Business was for the Variance of Use and Developmental Variance request by Petitioner Mr. Jeff Wiers, Electric Power Solutions, LLC. The Petitioner is requesting a Variance of Use to allow for 2 principal structures on a lot in a B-3 Zoning District with multiple tenants in each building. The Petitioner is also requesting a Developmental Variance to allow the use of the natural buffer as screening to adjacent Residential Zoning; parking in the front and side yard; to allow 1 monument sign in the front yard; and signage per tenants not to exceed 32 square feet each. Mr. Jeff Wiers and Mr. Ryan Marovich, DVG Team, were present for this item.

Ms. Murr advised the Board this was a continuation of the Public Hearing. The Petitioners have provided information on items they are going through with Plan Commission. Mr. Marovich stated there had been discussion on the drainage issue and a potential issue with wetlands that Mr. Oliphant wanted to have reviewed. He has been working with Mr. Oliphant to determine how close to U.S. 41 the buildings need to go to stay away from the sensitive areas.

Mr. Marovich stated they were wanting to move forward with the Variance of Use for two primary structures on one lot and the Developmental Variance of the monument sign in the front yard and for parking in the front and side yard. They were requesting to defer the Variance of Use for multiple tenants in each building and the Developmental Variance to use the natural buffer and signage per tenant.

Mr. Recupito asked for some clarification regarding the Variance of Use and that they are just requesting two principal structures on a lot in a B-3 Zoning. Mr. Wiers stated they were just deferring the multiple tenants until they finish having discussions with Mr. Oliphant. Mr. Recupito asked if they were deferring the whole Variance of Use. Ms. Murr stated they are splitting the request and still asking to have the two principal structures. The sizes are being determined based off of engineering from the storm drainage. Determining the size of the buildings would determine how many tenants they can have in each building.

Mr. Recupito asked for clarification on the Developmental Variance for the natural screening, if they are no longer requesting this part of the Variance. Mr. Marovich stated there are two residential lots in the rear of the property. There would be no development at that portion of the property. Ms. Murr stated there is a request to defer the item in case some of the buffer needs to be touched.

Mr. Recupito asked if the Variance they were still requesting was for parking in the front and side yard. Ms. Murr advised they were still requesting the Variance for the monument sign. They were also requesting to defer the signage per tenant due to not knowing the amount of tenants will be able to be in the building.

Mr. Recupito discussed the breaking up of the requests and that he would have preferred to see this a PUD and that they requested a Variance to allow for a PUD on the property. Mr. Wiers stated they had not foreseen the issues with the storm water and they are trying to work with Mr. Oliphant and the Town to figure out the best solution. They are reducing the size of the site and their buildings to try to make things easier and better with the Town.

Mr. Marovich stated the flood elevation is being looked for through analysis to give an elevation contour, and that would give the line on where to build. Mr. Wiers stated he did not know if it would affect them, but the current owner of the property owns the adjacent property. The owner advised him when he built his property, he put in drainage to adhere for the property in question as well. They are just trying to do everything in the best interest of everyone to make things right and stay out of the easement. This is why they are wanting to defer the items that are pending engineering.

Mr. Wilkening discussed stormwater has been being discussed since they presented concept plan and the buffer is needed because of the residential lots and that waiving the screening still needs to be discussed. Ms. Murr commented this is why that portion was asking to be deferred. They are not asking to completely eliminate the request to use the natural buffer as screening. The Petitioner would like to move forward with having two principal structures on the lot they just are not certain on the size and they are not wanting to make them any larger than the originally introduced size of 10,500 square feet. Discussion ensued regarding the effect of stormwater in the area.

Mr. Wilkening commented that some of the items were related to Site Plan and asked Ms. Murr why they were being presented at the BZA. Ms. Murr responded the buffer is required by the Zoning Ordinance, which is a BZA. Mr. Recupito discussed if this had been zoned as a PUD, this could have all been discussed as a requirement of the PUD with the Plan Commission.

Mr. Recupito asked Ms. Murr with the removal from the number of tenants in the request, is it still a Use Variance to have two primary structures on one lot. Ms. Murr responded in the affirmative and stated the Zoning Ordinance only allows for one principal structure on a lot. Discussion ensued about having two principal structures as a Variance of Use versus a Developmental Variance.

Mr. Wilkening asked if the Petitioner was not sure over which size building was going to be built upon the property. Mr. Wiers stated it is going to be dependent upon where Mr. Oliphant advises them that they can go to on the western boundary. They are going to manipulate the Site Plan, parking, size of building, and the like to make it fit within the buildable area.

Mr. Wilkening asked if they were currently asking for only three of the Variances to be approved tonight. Ms. Murr responded in the affirmative.

Mr. Marovich stated Mr. Oliphant identified a potential wetland area due to a low spot in the area. This area is on the other side of the water way. They were planning on staying out of that area. Discussion ensued about the water way problem and working with Mr. Oliphant to ensure a larger water way problem does not occur.

Mr. Wilkening asked what the sizes of the waterways are running through the property. Mr. Marovich stated there are five 24-inch pipes. Mr. Wiers stated that the property owner of Illiana over-engineered the water in the area and this likely will not be taken into account. Further discussion ensued regarding the water way in the area and allowing for a 100-year rain event.

Mr. Recupito asked with the amended requests, if they were to obtain favorable recommendations, when would they appear in front of the BZA next. Mr. Marovich stated he was hoping they were hoping to be back in front of the BZA in January.

Mr. Recupito asked if any of the concerns they had the month prior had been worked on, such as types and number of businesses. Mr. Wiers responded they are asking for a deferral on that. At this time, they do not know what their Site Plan will look like. They met with Mr. Eberly, Mr. Oliphant, and Ms. Murr to discuss the Site Plan and it's left to Mr. Oliphant and Mr. Marovich to determine the building line.

Mr. Recupito expressed that he did not like the idea of breaking up the motions. Mr. Wiers stated they came in order to stay in front of the BZA and to provide an update. This is unfortunately where they are at with their process.

Mr. Wilkening asked Ms. Murr where the monument sign was going to be in the front yard. Ms. Murr responded it would be in the front yard setback and the monument sign is indicated on the Plat. The monument sign would meet Town Ordinance for a monument sign. The location was the reason for the Developmental Variance request. It is the same with the parking.

Mr. Wiers stated the Variances they are requesting are important to them in moving forward with the project. They are looking to finalize the purchase of the property to be able to move forward. They are trying to obtain some of the major things and with the setback of determining their western boundary it would change their plans. The Variances they are requesting to be deferred they cannot give any further direction until they obtain direction on their western boundary.

Mr. Jackson asked if the western boundary would make a difference on their building sizes. Mr. Wiers responded in the affirmative. Discussion ensued about the division of the requests and the amount of information being provided to the BZA.

Mr. Kiepora discussed the amount of tenants would vary on the building size and if the building is going to be smaller than originally anticipated he could have less tenants then he originally discussed.

Mr. Recupito asked Ms. Murr if the Town Council would have all the information being discussed about at the BZA. Ms. Murr responded they would receive a recommendation for two primary structures on one lot. The multiple tenants would have to go back to the Town Council once it appears in front of the BZA.

Mr. Wiers stated there is an existing pole barn that is on the back of the property. The pole barn had been referenced at previous meetings in regard to their second building. The pole barn would be removed when they constructed the second building. However, they would still need the approval for two primary structures on a lot with leaving the pole barn up. He had the understanding that they could ask the BZA for multiple tenants. The multiple tenants would be based on the size of the building and the amount of parking. They are offering more than what would be asked for regarding parking. They are asking to come back for the multiple tenants once they determine their western boundary.

Mr. Wilkening asked the Petitioner which item would be the deciding factor for them of the three petitions they are requesting tonight. Mr. Wiers indicated it would be all three items and discussed his reasoning for wanting additional parking.

Mr. Wilkening asked the Petitioner when would the second building be built. Mr. Wiers stated that would be determined in the future. Mr. Wilkening asked if the Petitioner knew that the back area would not become an outside storage area. Mr. Wiers stated they have no intent of touching the back portion of the lot until they start construction of the second building.

Mr. Recupito asked Ms. Murr if there were any further comments she had. Ms. Murr stated what has been discussed came from the meeting staff and the engineer had with the Petitioner and trying to get some of this moving forward. Further discussion ensued about the division of the Variance requests and concerns of the BZA.

Mr. Wilkening asked Mr. Marovich where he was at in discussions with Mr. Oliphant in regards to engineering. Mr. Marovich responded currently Mr. Oliphant has found and reviewing the report from Illiana Storage. Some of the flows Mr. Marovich matches some of the data from Illiana Storage. The report did not give a base flood elevation. Once the base flood elevation is determined will determine where they can go for a building line. The last time he talked with Mr. Oliphant he advised him of what he found and he was reviewing it a bit further. Discussion ensued about how much information would be needed for the report and to determine the building line.

Mr. Marovich advised the first three requests are important to him determining the Site Plan and used an example of parking in the front yard setback.

Mr. Recupito asked if similar discussions occur at Plan Commission Work Sessions. Mr. Wilkening indicated that similar discussions do occur.

Mr. Marovich asked the BZA if they received the updated copy of the Site Plan. Mr. Recupito responded in the affirmative. Mr. Marovich described the new Site Plan that was included in the packet to the BZA and the buildings could become smaller than what was rendered on the Site Plan. Further discussion ensued about the potential building sizes being dependent upon engineering and having two principal structures on a single lot.

Mr. John Van Proyen stated when they had met with the Plan Commission there were 3 major topics that were of major concerns. The flooding in the back of the lot. Mr. Oliphant would be the determining factor of where they build and will determine their western edge with no deviation. The second was the screening and with the plan of not touching anything in the back, they are asking for that variance to say the existing buffer is sufficient. The final issue was the number of tenants. They are committed to working with the town, but Mr. Oliphant's answer would drive the size of the building, thus the amount of the tenants. They are asking the BZA to understand they have taken care of two of the issues with not touching the western edge and the only thing they cannot answer is the number of tenants. Discussion ensued about the issue being not only number of tenant but type of tenants and both the BZA and the Petitioner not wanting retail in the space. Further discussion ensued about the separation of the Variance requests and the Site Plan.

Mr. Kiepora asked the Petitioner if they were anticipating each tenant having 2,000 square foot units. Mr. Wiers stated it is possible but he is not sure because he does not know the size of the buildings.

Mr. Kiepura discussed the allotment of 2,000 square feet and the potential amount of tenants they could have for a building 8,000 square feet or smaller and if it is stated the tenants would have no more than 2,000 square feet per building it would lock in the size restriction for the tenants. Mr. Wiers stated that it was doable, that had not been his understanding from the Town Ordinance but if that is what they need to do to appease both the BZA and the Plan Commission they would agree. Discussion ensued regarding how the parking is determined through building size, number of employees, or business use. Further discussion ensued about the amount of tenants that could be considered in the development, the division of the Variance requests and what had been asked from the Petitioner at the November meeting.

Mr. Kiepura asked if they could include in the motion that multiple tenants will be determined at a different date so they cannot put in however amount of tenants they would like. Mr. Marovich stated the other major concern was the multiple tenants and the type of tenants and this is related to what they are requesting a deferral for. If everything is okay for the two principal structures, parking in the front yard setback, and monument signage, they would still have the balance of the Petitioner coming back next month for the items asking to be deferred. Further discussion ensued about the Variances that they are requesting to be approved and that the property size could become smaller based off of Mr. Oliphant's review.

Mr. Recupito entertained a motion. A motion was made by Mr. Wilkening and seconded by Mr. Kiepura to send a Favorable Recommendation to the Town Council for the Variance of Use to allow two principal structures on a lot in a B-3 Zoning District per the Finding of Facts. The motion tied 2-Ayes to 2-Nays by roll-call vote. No recommendation will be sent to the Town Council.

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

Mr. Recupito entertained a motion. A motion was made by Mr. Wilkening and seconded by Mr. Kiepura to approve the Developmental Variance to allow a monument sign in the front yard setback with the Finding of Facts. The motion passed 3-Ayes to 1-Nay by roll-call vote.

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

Mr. Recupito entertained a motion. A motion was made by Mr. Wilkening and seconded by Mr. Kiepura to approve the Developmental Variance to allow parking in the front yard and side yard setbacks. The motion tied 2-Ayes to 2-Nays by roll-call vote. The Developmental Variance does not pass.

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

Mr. Recupito entertained a motion for deferral for the Variance of Use request for multiple tenants in each building and for the Developmental Variances for parking in the front and side yard setbacks; to

Board of Zoning Appeals  
December 9, 2021

utilize the natural buffer as screening to adjacent residential zoning; and signage per tenants not to exceed 32 square feet each to the January 2022 meeting. The motion passed unanimously by roll-call vote.

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

## **2. Resolution No. 2021-01 – Board of Zoning Appeals Rules & Regulations**

Mr. Recupito stated the next order of business was for Resolution No. 2021-01 Board of Zoning Appeals Rules & Regulations. Ms. Murr advised the BZA there have been no additional changes made to the Rules & Regulations. At their last meeting, she had provided the forms they requested to them. The Town Attorney was going to review the document and provide feedback. It is the pleasure of the Board if they want to act upon the Rules & Regulations.

Mr. Recupito commented he would like to receive feedback from Mr. Austgen and asked the Board for their comments. Mr. Kiepura stated if Mr. Austgen has commentary on this item, then they should wait upon acting on the Rules & Regulations until they receive those comments.

Mr. Recupito entertained a motion to defer this item. A motion was made by Mr. Wilkening and seconded by Mr. Jackson to defer this item to the January 2022 meeting for the attorney's review. The motion passed unanimously by roll-call vote:

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

### **PUBLIC COMMENT:**

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

### **ADJOURNMENT:**

Mr. Recupito adjourned the meeting at 10:12 PM.



## TOWN OF CEDAR LAKE BOARD OF ZONING APPEALS

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Nick Recupito, Chairman

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Jeff Bunge, Vice Chairman

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John Kiepora, Member

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Jerry Wilkening, Member

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Ray Jackson, Member

ATTEST:

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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 Board of Zoning Appeals: December 9, 2021 Minutes*

December 9, 2021

E-mail from Fire Chief Todd Wilkening regarding Petitioner Bowman's request.

**Re: 12.09.2021 BZA Agenda posting**

**Todd Wilkening** <todd.wilkening@cedarlakein.org>

Thu 12/9/2021 5:01 PM

To: Jill Murr <jill.murr@cedarlakein.org>; Jeff Bunge <jeff.bunge@cedarlakein.org>; Jerry Wilkening <jerry.wilkening@cedarlakein.org>; John Kiepura <john.kiepura@cedarlakein.org>; Nick Recupito <nick.recupito@cedarlakein.org>; Ray Jackson <ray.jackson@cedarlakein.org>

Cc: Austgen Law <akapc@austgenlaw.com>; Rick Eberly <rick.eberly@cedarlakein.org>; Ashley Abernathy <ashley.abernathy@cedarlakein.org>; Robert Carnahan <robert.carnahan@cedarlakein.org>; Don Oliphant <doliphant@cbbel.com>

Jill

I was asked to look at this request for a fence. We have had a very difficult time in the past with the set back up there, the approval of this will make it difficult to maneuver being the set back is so close to the road. Unfortunately, I have to speak against this request. We have in the past done a test in the area to see if we can maneuver around before changes are approved.

5. Bowman – 13505 Dewey St. – Developmental Variance Owner/Petitioner: Darrin Bowman, 10001 W 113th Ave., Cedar Lake, IN 46303 Vicinity: 13505 Dewey St., Cedar Lake, IN 46303 Request: Petitioner is requesting a Developmental Variance from Zoning Ordinance No. 496, Title XXI-Fence Regulations: Section 1: A. 1) No fence shall be located in the front yard and 8) Fences shall not be constructed of chain link, wire or an equivalent type of material adjacent to any street. This Developmental Variance is to allow the Petitioner to replace a previously removed chain link fence and install a six (6') foot chain link fence in the front yards of a through lot; setback one (1') foot to three and one-half (3.5') feet along Dewey Street and Lee Street.

Thank You

**Chief of the Fire Department**

*Todd Wilkening*



**Town of Cedar Lake Fire Department**

**PO Box 459**

**9430 W 133rd Ave**

**Cedar Lake, IN 46303**

**Jill Murr**

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**From:** jlordo53@gmail.com  
**Sent:** Thursday, December 9, 2021 10:13 AM  
**To:** Jill Murr  
**Subject:** Written Objection to BZA variance request

Cedar Lake Board of Zoning Appeals,

My name is Jacob Lordo and I reside at 13500 Dewey Street Cedar Lake IN 46303. In my absence of this meeting taking place on December 09, 2021 please consider my written objection to the request of petitioner Darrin Bowman of 10001 W. 113th Ave Cedar Lake IN to erect a 6' chain link fence in the front yards of a through lot along Dewey and Lee street located at 13505 Dewey Street. The basis of my objection stands in line with current town ordinance No. 496, Title XXI Section 1: A. 8) "Fences shall NOT be constructed of chain link, wire or an equivalent type of material adjacent to any street". I believe this ordinance was adopted with the aesthetic improvement of Cedar Lake in mind and to allow this variance would be a violation of just that. Chain Link fences are almost never used in residential applications any longer due to their unsightly appearance that act as hot beds for heavy unsightly vegetation growth to include poison ivy and poison oak. As a Cedar Lake resident with high hopes of the continued progressive development of the town, I would ask that this variance request be denied and reconsidered if the petitioner is willing to erect a fence with more residential friendly materials i.e. cedar picket or vinyl.

Thank you for considering my neighborly concerns.

Jacob A. Lordo