



**CEDAR LAKE BOARD OF ZONING APPEALS MINUTES**  
**CEDAR LAKE TOWN HALL, 7408 CONSTITUTION AVENUE, CEDAR LAKE, INDIANA**  
**January 13, 2022 at 6:00 pm**

**CALL TO ORDER:**

Mr. Recupito called the Board of Zoning Appeals meeting to order at 6:00 pm, on Thursday, January 13, 2022, with its members attending on-site. The Pledge of Allegiance was recited by all.

**ROLL CALL:**

**Members Present:** Ray Jackson; Jerry Wilkening; John Kiepura; Jeff Bunge, Vice Chairman; and Nick Recupito, Chairman **Also Present:** David Austgen, Town Attorney; Robert Carnahan; and Ashley Abernathy, Recording Secretary. **Absent:** Jill Murr, Planning Director

**APPOINTMENT OF OFFICERS:**

**A. Chairman**

Mr. Recupito stated the first order of business was for the nomination and appointment of the Chairman for the BZA. A nomination was made by Mr. Kiepura and seconded by Mr. Wilkening to nominate Mr. Recupito to be Chairman. The nomination passed unanimously by roll-call vote:

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

**B. Vice Chairman**

Mr. Recupito stated the next order of business was for the nomination and appointment of Vice Chairman for the BZA. A nomination was made by Mr. Kiepura and seconded by Mr. Wilkening to nominate Mr. Bunge to be the Vice Chairman. The nomination passed unanimously by roll-call vote:

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

**APPROVAL OF MINUTES:**

Mr. Recupito stated the next order of business were for the Minutes from December 9, 2021. Ms. Abernathy advised the Board the requested updates had been made and they were pending review from Ms. Murr and if the Board would prefer to defer the Minutes to the February 2022 meeting.

Mr. Wilkening asked Ms. Abernathy to send a copy of the updated to the members of the Board. Ms. Abernathy commented she would do so.

Mr. Recupito entertained a motion for the deferral of the December 9, 2021, Minutes. A motion was made by Mr. Bunge and seconded by Mr. Wilkening to defer the Minutes from December 9, 2021 to the February 2022 meeting. 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. 2022-01 – Kijewski – Developmental Variance**

**Petitioner: Michael Kijewski**

**Vicinity: 9827 West 150<sup>th</sup> Court, Cedar Lake, IN 46303**

Mr. Recupito stated the first order of New Business was for a Developmental Variance request by Petitioner Mr. Michael Kijewski to allow for a 10-foot by 16-foot shed 5-foot 3-inches from the western property line in the vicinity of 9827 West 150<sup>th</sup> Court. Mr. Recupito asked Mr. Austgen if the legals are in order for this item. Mr. Austgen responded in the affirmative.

Mr. Recupito asked the Petitioner for the reason for his request. Mr. Kijewski stated he was wanting to put a shed up on the west side of the house. He is aware of the Zoning Ordinance requiring the shed to be 10 feet away from the house and 6 feet from the property line. He has 25-foot 2-inches available on the side of the house he is wanting to put the shed on.

Mr. Recupito asked Ms. Abernathy if she had any input from the Building Department or if they were still waiting on Ms. Murr. Ms. Abernathy commented there were no additional members present on Zoom at this time.

Mr. Recupito asked Mr. Austgen for his advice regarding no individual present from the Building Department. Mr. Austgen stated while the request does not appear to be complex, there is no commentary or input from staff.

Mr. Recupito asked if they could carry on if they chose to do so. Mr. Austgen responded in the affirmative.

Mr. Wilkening asked Ms. Abernathy if she was the Recording Secretary for the Town. Ms. Abernathy responded in the affirmative.

Mr. Wilkening asked if there was anything from the Building Department that was not included in their packet. Ms. Abernathy responded in the negative.

Mr. Kiepura asked the Petitioner if he meant the east side of the property versus the west side of the property. Mr. Kijewski responded Mr. Kiepura was correct, it was the east side of the property he was wanting to build on.

Mr. Kiepura asked the Petitioner if he had one shed already. Mr. Kijewski responded in the affirmative.

Mr. Kiepura asked how many accessory structures are allowed per Ordinance. Mr. Recupito commented he believed that two accessory structures are allowed per Ordinance. Mr. Austgen discussed he thought it was one. Discussion ensued regarding how many accessory structures are allowed on a lot and Ms. Abernathy read Zoning Ordinance, Title 23, General Accessory Regulations, Item 3 to allow two accessory structures on a lot into the record.

Mr. Kiepura asked if there was a certain size of accessory structure that would require a slab. Mr. Austgen advised that was not included in the Zoning Ordinance.

Mr. Recupito asked the Petitioner if the existing shed was going to remain after the new shed is constructed. Mr. Kijewski responded in the affirmative.

Mr. Bunge commented he believes the existing shed is not conforming to Ordinance due to having three front yards because of fronting on Drummond Street, 150<sup>th</sup> Court. Mr. Recupito commented the property fronts on 151<sup>st</sup> Avenue as well. Mr. Bunge discussed that there has been leniency shown along 151<sup>st</sup> Avenue in the past due to the berms and the large utility easement that runs along those properties. Mr. Kiepura commented the request is wrong due to the Petitioner wanting to put the shed on the east side and that would make the new shed be in the side yard. Discussion ensued regarding if the requested shed would be in the front yard or side yard due to the location behind the house.

Mr. Recupito asked the Board if they had any further comments at this time. None were had.

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

Mr. Bunge asked the Petitioner if he had pulled a Building Permit for the existing shed. Mr. Kijewski responded in the affirmative.

Mr. Recupito asked the Petitioner if the reason for the request is due to the proposed shed not being able to meeting the requirements for setbacks. Mr. Kijewski responded in the affirmative.

Mr. Kiepura asked the Petitioner why the proposed shed had to be in the requested location. Mr. Kijewski responded the location he would like to put it in is the most unused spot and he would like to put in a pool on the backside of the house in the next year.

Mr. Austgen asked if there would need to be a variance request for the swimming pool. Mr. Recupito asked the Petitioner if he had discussed the future swimming pool with the Building Department. Mr. Kijewski stated they were going through Caribbean Pools and the permits would be going through them for the pool. They had advised him there would not be any problems with the pool.

Mr. Austgen advised the Petitioner what Caribbean Pools thinks would not be a problem and what is required by the Zoning Ordinance are two different items. The other thing to keep in mind would be lot coverage, and if the Petitioner would be okay with lot coverage.

Mr. Recupito asked Mr. Austgen if he could further advise the Petitioner about creating his own hardship. Mr. Austgen advised that the lot size was known from the platting process, with the Petitioner wanting to do a lot with his property, and what he wants to do on his property needs to align with the Zoning Ordinance.

Mr. Wilkening asked how big the existing shed on the property is. Mr. Kijewski responded that it is 10-foot by 16-foot. Mr. Wilkening asked the Petitioner if he was duplicating that next to the house. Mr. Kijewski responded in the affirmative and stated it would be the same style as the other shed.

Mr. Recupito stated with the future plans the Petitioner has to improve his property, and lot coverage is exceeded due to the current variant request. Mr. Kijewski asked what size of lot coverage could he exceed. Mr. Recupito stated he could not exceed the lot coverage, but he was allowed to have 25 percent lot coverage. Anything in excess of the 25 percent lot coverage, he would have to apply for another variance.

Mr. Austgen discussed a previous petition in Krystal Oaks that applied for a variance for a pool after other improvements had been made to the property and was denied by the BZA for similar reasons as those that are being discussed tonight.

Mr. Recupito asked the Petitioner if he would like to defer this item to determine if he would like to move forward with the shed in consideration to what he has planned for the future. Mr. Kijewski asked who he would need to see to determine the lot coverage. Mr. Recupito advised him he could go to the Building Department.

Mr. Kiepora asked where the easement on the Petitioner's property was located, inside or outside the fence. Mr. Kijewski stated he believes it is located outside the fence. Mr. Recupito commented there is a utility easement that comes into the property. Discussion ensued regarding the utility easement and that it has the potential of being inside the Petitioner's fence.

Mr. Kijewski requested a deferral to the February meeting.

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

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

## **2. 2022-02 – Gasche – Developmental Variance**

**Petitioner: Skip Gasche**

**Vicinity: 134<sup>th</sup> Place & Elm, Cedar Lake, IN 46303**

Mr. Recupito stated the next order of business was for the Developmental Variance request by Mr. Skip Gasche to allow for a front yard setback of 25 feet, a rear yard setback of 15-feet, and lot coverage of 2,100 square feet being 29.2 percent on a corner lot on Elm Street and 134<sup>th</sup> Place. Mr. Recupito asked Mr. Austgen if legals were in order. Mr. Austgen responded the proofs of publication were not in order

and advised that any action taken regarding this item would be contingent upon all proofs of publication being provided.

Mr. Gasche stated he was wanting to construct a cape cod style house on a lot that would fit the neighborhood in design. It is a small lot and has some hardships with being located on a corner lot.

Mr. Recupito asked Ms. Abernathy if she had any information regarding this item. Ms. Abernathy responded in the negative.

Mr. Austgen advised the Board that there are four variances being requested with this request. Ms. Abernathy advised the Board that page 13 of their meeting packet has all four variances the Petitioner is requesting.

Mr. Recupito asked the Petitioner if he was going to have a basement or a crawl space under the house. Mr. Gasche responded it would be a crawl space.

Mr. Wilkening asked if the property is going to be on Lots 5 and 6 and with the existing house next door on Lots 1 and 2 what would be the square footage difference be for the main floor. Mr. Gasche stated the base of the houses are about the same square footage.

Mr. Wilkening asked if the reason for one of the requests is being 5 feet to close to the road on 134<sup>th</sup> Place. Mr. Gasche responded in the affirmative. Discussion ensued regarding the various setback requests the Petitioner is requesting and that moving the house any is not feasible.

Mr. Gasche discussed he and Ms. Murr had looked at having the house come off of 134<sup>th</sup> Place, but it would only leave an 8-foot yard between him and the neighbor to the east. They were also looking to include a garage for off-street parking. Mr. Wilkening asked if the plans he had was going to work with the garage. Mr. Gasche responded in the affirmative.

Mr. Kiepora asked if this would be considered a Legacy Lot with the new Ordinance. Mr. Recupito responded in the negative and stated due to it being a vacant lot it would fall under the R-2 Zoning District.

Mr. Recupito asked if there was any public for or against this variance.

Ms. Marjorie Larmon stated she owns Lot 1 and 2 and her home is under 1,100 square feet. It is the same size lot as the lot Mr. Gasche is attempting to build a house on.

Mr. Michael Bafia stated where the Petitioner stated the footprints were the same, the proposed house is close to double.

Ms. Larmon stated her main issue is there is not a hardship proven or proven practical difficulty as to why he needs those variances. She has no issue with the Petitioner from building a home, she just does not know why it needs to be that size. The home that would be appropriate for his lot would be an 1,800 square foot home, not including any decking or accessory structures.

Mr. Recupito asked if there was any further comment for or against this petition. None were had.

Mr. Recupito asked the Petitioner if he had any comments in regards to the concerns voiced by his neighbors. Mr. Gasche stated with the house being a cape cod style, the lower level is only 1,800 square feet. It is 2,100 square feet due to being a story and a half.

Mr. Wilkening asked if the 1,800 square feet for the lower level was including the garage. Mr. Gasche responded in the affirmative.

Mr. Recupito asked Mr. Austgen for his legal advice with this petition due to having no Building Department input. Mr. Austgen advised there are typically three sides to the petition, the Petitioners, the Remonstrators, and the Building Departments. Without the information from the Building Department, it is enough for the Board to defer this item.

Mr. Wilkening asked the Petitioner if he was going to be 15 feet from his neighbor's property line. Mr. Gasche responded in the affirmative. Mr. Bunge commented the rear yard was supposed to be 18 feet 7-inches. Mr. Gasche stated if he were to reverse the way the plan is laid out and put the garage off of 134<sup>th</sup> Place he would only need 8 feet without a variance due to that becoming a side yard. Discussion ensued regarding potentially deferring this item to February in order to obtain information from the Building Department.

Mr. Austgen asked for clarification between what the Petitioner is requesting and what would require the Petitioner not needing any variances. Mr. Bunge discussed needing a 30-foot setback off of both 134<sup>th</sup> Place and Elm Street. Mr. Gasche stated there is enough room where he could move it to the south and obtain the 30 feet.

Mr. Bunge asked Mr. Gasche if he had a neighbor to the south. Mr. Gasche responded two lots over and to the south. Those neighbors are building a new house that will be two and a half stories.

Mr. Kiepora asked what impact does his house have on the neighborhood. Mr. Gasche stated he believes it is a positive impact to the neighborhood.

Mr. Austgen advised the Board that approval can only be given if all three findings listed in Indiana State Code are met and practical difficulties are demonstrated.

Mr. Wilkening commented this was similar to the other agenda item, there is no deck or accessory structure that could be added after this house is built, due to being over lot coverage if he obtains approval for the Variance.

Mr. Recupito asked the Petitioner if he would like to defer to February. Mr. Gasche responded he would like to get the survey done for the property.

Mr. Wilkening stated changing the size of the house would affect the roof line, size of the rooms, and other items within the build of the house and commented on having a deferral to February could be beneficial.

Mr. Recupito discussed the Finding of Facts the Board has to review when making a determination for granting a variance request. Mr. Bunge commented on the same and stated how the governing powers of the Board are structured is what they are currently struggling over. They are currently seeing no practical difficulty for him to be able to build a structure that would be able to meet what he is wanting to do. They are having a hard time with the size and the request of four Variances. He does see some hardship with being on a corner lot; however, does that justify overriding the rules of decision and conduct.

Mr. Gasche stated he understood what the Board was talking about and he is not asking for a massive house. He wants to keep with the community, and the house he is proposing is not out of proportion. As he stated, he could move it further south off of 134<sup>th</sup>. He was just trying to keep separation between him and his neighbors. He took in view angles from his neighbor's houses and the street.

Mr. Wilkening stated while the presentation has been beautifully executed, he agrees with Mr. Bunge. The practical difficulties for anyone are minimal, and he is struggling with the hardship. One of the Finding of Facts he is struggling with is will the approval of the Variance adversely affect the neighbor's properties. One item he is concerned with, if the house gets sold in the future, and the potential new homeowner comes in and wants to build a deck or accessory structures, there would be an issue caused due to the originally granted Variance. Discussion ensued regarding the Finding of Facts and the Petitioner needing to meet all three criteria for a Developmental Variance.

Mr. Austgen asked if a house could be built on this property without a Variance. Mr. Wilkening responded in the affirmative. Mr. Austgen commented if it can, there is no practical difficulties. Discussion ensued about having the Petitioner obtain a deferral for a month or potentially getting a denial and not being able to come in front of the Board for another year.

Mr. Recupito asked the Petitioner if he would like to request a deferral until the next meeting. Mr. Gasche stated he would like to defer this item to the February meeting.

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

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

Mr. Austgen advised the Board within the Town's file there is a list of six key numbers with owner's names and mailing addresses, with a checkmark against five of the six. The green cards are not included and he does not have the publication of notification included in the Town file.

**3. 2022-03 – Grand Prize Cars/Majeski – Developmental Variance**

**Owner Richard Henn, Henn & Sons Construction Services, Inc**

**Petitioner: Norman Majeski**

**Vicinity: 13324 Wicker Avenue, Cedar Lake, IN 46303**

Mr. Recupito stated the next order of business was for the Developmental Variance request by Mr. Norman Majeski, Grand Prize Auto, to park 6 cars on 13324 Wicker Avenue in the front yard. Mr. Recupito asked Mr. Austgen if the legals are in order for this item. Mr. Austgen responded in the affirmative.

Mr. Majeski stated when they added onto the building next door, the middle lot got pulled into the new lot. For six years, he has been parked in that area, but in combining the three lots and two lots, he lost the parking spots he has been using.

Mr. Recupito asked Ms. Abernathy if she had any information regarding this item. Ms. Abernathy responded in the negative.

Mr. Recupito asked the Petitioner why he needs the six spaces he was requesting for. Mr. Majeski stated the front line of the car lot is the most important. If someone does not see a car they want on the front line, they will not come onto the lot. When there are three spaces with no cars, it looks like the business is closed.

Mr. Bunge asked if this was part of Mr. Henn's property. Mr. Majeski responded in the affirmative and stated he was just told not to park in those slots until the building was completed. Someone came and advised him he was on the neighbor's lot and that portion had been part of the car lot for six years.

Mr. Wilkening comments he believes what happened was when the property was redrawn and cleaned up legally and on paper, two lots were created. Grand Prize Cars is on the northern lot that is currently existing Non-Conforming. What is being referred to is the frontage that he used to utilize.

Mr. Wilkening asked the Petitioner if he was asking for six spaces, total, three more in the front and three to the west. Mr. Majeski stated he believes it is three spots in the front, two behind the front row, and one behind the two due to the driveway for the Fire Lane. Discussion ensued regarding the parking that would occur on the parking lot and the parking breakdown for the business.

Mr. Recupito asked Mr. Wilkening or Mr. Kiepora if they could provide some history of what occurred on the property at the Plan Commission. Mr. Wilkening discussed what occurred at the Plan Commission and what started the chain of events with the platting of the properties, with the lots being split north and south lots.

Mr. Recupito asked Mr. Austgen if he had any comments regarding their questions or concerns regarding this item. Mr. Austgen stated he believes that the subdivision has not received final approval and that the Plan Commission has that item still before them. There is a Zoning Violation existing. In late September a notification was provided to the property owner, Mr. Henn and his tenants, regarding the violation. An agreement was made that those items would be addressed and resolved by November 1, 2021.

Mr. Austgen stated November 1, 2021, came and nothing was fixed regarding the violations. There had been communication between the Town Administrative Offices and Mr. Henn. He has been advised by the Town Manager that he has talked with Mr. Henn.

Mr. Austgen advised the Board on November 23, 2021, Mr. Eberly issued a notice to Mr. Majeski following the letter sent November 18, 2021, advising him to remove the vehicles from the location they were improperly parked in and due to the continuing Violation a fine in the amount of \$250 for the Violation of Title 20, Section 9. On December 16, 2021, a new letter was issued due to continued nonconformance and the fee not being paid. It was stated in the December 16, 2021, letter if the fine was not paid by December 22, 2021, the matter would be turned over to the Town Attorney with an additional fee of \$150 being issued. Due to no payment being made, he was notified by Mr. Eberly of the situation and on December 29, 2021, the situation was turned over to him. On January 12, 2021, he issued a fine payment notice to each known business owners, Mr. Frazee and Mr. Majeski regarding the issue.

Mr. Majeski stated there has been some miscommunication. When the first fine came out, he called Mr. Eberly and Mr. Eberly advised him not to pay the first fine and apply for a Zoning Variance and he



could leave the cars until the next BZA meeting. He was having Ms. Murr regarding what was needing to be done. The last time he talked with Mr. Eberly and obtained help filling out the application form, the fee was \$250. Mr. Majeski discussed he had been communicating back and forth with Ms. Murr before coming in and seeing Mr. Eberly and filling out the application.

Mr. Recupito asked how many times Mr. Majeski was notified regarding the fine. Mr. Austgen stated maybe as many as six times. Mr. Majeski stated the last fee he saw was \$250 and that was when he started talking to Mr. Eberly. Mr. Austgen advised that everything he discussed was directly from an e-mail or letter of communication. Discussion ensued regarding the fine and the Petitioner had communications with Town staff.

Mr. Recupito asked Mr. Austgen this item is advertised as a Developmental Variance and should this not be a Use, Variance. If it is supposed to be a Use, Variance, it would not just need an approval from them and would still need to go to the Town Council. Mr. Austgen responded it is in the right place with the right application for a Developmental Variance and legally the Board is able to vote on the petition.

Mr. Wilkening stated he has a few concerns with this petition. The first is he does not know how many businesses are on the north lot and were they approved, or would they be adding to the existing problem. As stated by Mr. Austgen, Mr. Frazee is now involved in this legal matter due to being on the property Mr. Frazee is responsible for. Mr. Wilkening asked if they would not need Mr. Frazee present to consider the request by the Petitioner.

Mr. Recupito asked if there was any public comment for or against this item. Mr. Wayne Stoll stated he just had a question about the wording of the request and wanted to make sure the cars would be kept on the pavement. Mr. Recupito responded where Mr. Majeski is wanting to park is where there are cars shown on Lake County GIS displayed on the monitor.

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

Mr. Recupito asked the Petitioner if he knew what business was operating behind him. Mr. Majeski responded there was a body shop behind him. He used to have the whole lot and he has only been sticking to his frontage. According to State Law, there can only be one business on that lot parking cars due to car dealership laws. Discussion ensued regarding the parking of cars on that part of the lot and the State Law regarding car dealerships.

Mr. Wilkening asked Mr. Austgen with Mr. Frazee not being present for some reference, how would they be able to vote on this item. Mr. Austgen stated they would need to have every party involved in attendance. Mr. Jackson commented on the same. Discussion ensued regarding not having Mr. Henn or Mr. Frazee present to speak on this petition.

Mr. Recupito asked Mr. Austgen for his legal advice. Mr. Austgen advised the Board there is an alleged violation reported by staff and documented in the record and the Board is aware of the Master Plan for US 41 and getting everything cleaned up in the area.

Mr. Kieppa asked the Petitioner how many cars he can have on the lot. Mr. Majeski stated 25 total including the six spots he is requesting permission to utilize. Mr. Kieppa stated he was allowed to have 19 cars without the six spots. Mr. Majeski responded in the affirmative.

Mr. Kiepura asked how many cars were currently on his lot. Mr. Majeski stated there were approximately 8 cars currently on his lot.

Mr. Kiepura asked if the property was all paved. Mr. Majeski responded in the affirmative. Mr. Kiepura asked if there were lines painted on the pavement. Mr. Majeski responded in the negative and stated due to the sizes of the cars changing and changing the way the cars are parked depending on the number of cars on the lot.

Mr. Kiepura asked if the portion of the property he wants to park cars on does not belong to the property that he is on. Multiple members of the Board responded in the affirmative. Mr. Kiepura asked the Petitioner if he was renting that part of the property. Mr. Majeski responded in the affirmative.

Mr. Kiepura stated he was not going to entertain any form of motion without the fines being taken care of. Mr. Majeski stated he would take care of the fines the next day.

Mr. Bunge asked if the Petitioner was currently parking cars in the disputed area. Mr. Majeski stated currently he is not parking in that area.

Mr. Wilkening stated he believes sometimes on the weekends there is a car parked where it is not supposed to be. Mr. Majeski commented he would move cars around and temporarily park them in that area. Discussion ensued regarding the parking of the cars in the area mentioned in the petition.

Mr. Austgen advised the Board to have the staff in Town Hall take a look at the property and document to the Board regarding the matters of the property and that the cars are no longer being parked there.

Mr. Recupito asked the Board if they would prefer if this item were deferred. Mr. Kiepura responded in the affirmative and stated they have a lot of questions.

Mr. Recupito asked the Board if they wanted the owner of the property and the other tenant present at the next meeting. Mr. Wilkening stated they need some documentation that everyone involved is agreeable to what the Petitioner was requesting.

Mr. Majeski asked the Board if letters from both individuals would be sufficient, or did they need them at the meeting. Mr. Wilkening stated documentation is okay with him. Discussion ensued regarding having approval from the property owner and tenant and the potential determination of the Board regarding the petition.

Mr. Wilkening commented the person who is responsible for the space that the proposed cars will be on is not present, and if there is a problem and the Board approves it, who would the fault be on.

Mr. Bunge stated that is where he sees the use limitation with there being no more than one commercial permitted use per single lot. If Mr. Frazee is the rent, paying tenant, he does not think they have any jurisdiction other than to refuse the petition.

Mr. Recupito asked Mr. Bunge if he was stating that the lot has the one use, and only the one use. Mr. Bunge responded in the affirmative and stated the use was for Mr. Frazee's tire shop. Mr. Wilkening commented is not the reason why the Petitioner is present tonight is to allow a bit of a different use to a lot that has only one use. Discussion ensued about who needed to be requesting the Developmental Variance, if the Petitioner has the right to be presenting his request, and the property Mr. Majeski is renting versus the property in question for the petition. Discussion also ensued regarding how the clean-

up of the property lines and platting occurred and the effect of the request of the Petitioner on the clean-up of the property.

Mr. Majeski asked the Board if a Notarized and signed letter from both parties would be sufficient. Mr. Bunge stated he would prefer someone from Henn and Sons who could speak on the company's behalf be present.

Mr. Majeski requested a deferral to February.

Mr. Recupito entertained a motion for this item. A motion was made by Mr. Wilkening and seconded by Mr. Jackson to defer this item to the February 2022 meeting. The motion passed 4-Ayes to 1-Nay by roll-call vote:

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

Mr. Wilkening stated for the record he would like to know what the situation of the parcel to the north on 13318 Wicker Avenue. Mr. Recupito commented on the same and stated he would like some input from the Building Department regarding the use and approvals regarding the same property.

**Old Business:**

**1. Wiers – Electric Power Solutions LLC – 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 Mr. Jeff Wiers, Electric Power Solutions LLC. Mr. Recupito stated there was a request from the Petitioner to defer this item until the February meeting. Mr. Recupito asked Ms. Abernathy if there was anything new. Ms. Abernathy advised the Board this petition was being deferred at the Plan Commission and had received approval at the December Town Council Meeting for the two primary structures on a single lot.

Mr. Recupito stated the Petitioner had requested for a deferral in advance due to no new information. Ms. Abernathy advised the Board there was an e-mail included in their packet on Page 50 of the meeting packet.

Mr. Wilkening requested for the other members of the Board to review the Variances being requested.

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

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

Mr. Bunge                      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. Mr. Recupito stated he would like this item tabled and removed from the agenda until the Board is ready to act on the Rules & Regulations. There are still some items that need to be reviewed by legal, and asked Mr. Austgen for his comments.

Mr. Austgen stated he reviewed the proposed policies and there is still a bit of work to do.

Mr. Recupito asked if the item needs to be removed from the agenda. Mr. Austgen stated they did not have to do anything with it. When the Board is ready to take action, they can request for it to be placed back on the agenda for review.

### **PUBLIC COMMENT:**

Mr. Recupito opened the floor up for public comment.

Mr. Austgen asked if there was a reason why no one from the Building Department was present. Mr. Recupito stated he did not know. Mr. Austgen stated it cannot be expected for Ms. Abernathy, who is the Recording Secretary, to answer their technical, project specific, or application specific inquiries, and he was just inquiring. Discussion ensued regarding having someone from the Building Department present at every meeting and ensuring what occurred tonight does not happen again.

### **ADJOURNMENT:**

Mr. Recupito adjourned the meeting at 7:46 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 5-14-1.5-4(b) which states:*

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

*(1) The date, time, and place of the meeting.*

*(2) The members of the governing body 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: January 13, 2022, Minutes*