



CEDAR LAKE BOARD OF ZONING APPEALS MINUTES
CEDAR LAKE TOWN HALL, 7408 CONSTITUTION AVENUE, CEDAR LAKE, INDIANA
February 10, 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, February 10, 2022, with its members attending on-site and electronically. The Pledge of Allegiance was recited by all.

ROLL CALL:

Members Present: Ray Jackson; Jerry Wilkening; John Kiepura; Jeff Bunge, Vice Chairman (via Zoom); and Nick Recupito, Chairman **Also Present:** David Austgen, Town Attorney; Jill Murr, Planning Director; Chris Salatas, Town Manager; and Ashley Abernathy, Recording Secretary. **Absent:** None.

APPROVAL OF MINUTES:

Motion made by Mr. Kiepura and seconded by Mr. Wilkening to approve the Minutes of the December 9, 2021, and January 13, 2022, Public Meetings. The motion passed unanimously by roll-call vote:

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

Old Business:

1. Bowman – 13505 Dewey St – Developmental Variance

Petitioner: Mr. Darrin Bowman

Vicinity: 13505 Dewey Street, Cedar Lake, IN 46303

Mr. Recupito stated the first order of Old Business was for the Developmental Variance to 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 by Petitioner Mr. Darrin Bowman. Mr. Recupito asked Mr. Austgen if legals are in order. Mr. Austgen responded in the affirmative.

Mr. Bowman stated he is still wanting to reinstall his fence and asked the Board if he could distribute some pictures of his property. Mr. Recupito responded in the affirmative. Mr. Bowman distributed pictures to

the Board and advised them what is seen on these photographs is depictions of what has been occurred on his property since the last meeting.

Mr. Recupito asked the Petitioner if he has changed anything from his petition since December 2021. Mr. Bowman stated he would like to keep the setbacks and still put up a chain link fence. He did decide to reduce the height to a four-foot fence instead of the original five feet he had requested. Mr. Bowman discussed at length the various photographs he included in the packet he provided to the Board.

Mr. Recupito asked Ms. Murr if she has any comments for this petition. Ms. Murr advised the Board one of the things to consider is the Petitioner is located on a through lot, and allowing for the right to protect his property in respect to some of the photographs distributed. Possibly allowing for a setback of six feet off of Lee Street and having the fence match up with the house on Dewey Street. One of the requests the Petitioner is requesting that is not allowed in the Ordinance is the installation of a chain-link fence.

Mr. Bowman stated in front of his house there are utility poles and the old fence was attached to the utility poles. The three feet setback would be behind the utility poles.

Mr. Wilkening asked the Petitioner to clarify if the photographs he distributed where to illustrate trespassing and examples of distances. Mr. Bowman responded in the affirmative and stated there has been divots left in the yard from people driving through. He had been allowed by the Town to put up a temporary fence, that he put up along the property line. One of the photographs included in the packet illustrates what happened to the fence.

Mr. Recupito asked who was trespassing on the property for the record. Mr. Bowman stated the tree service was on his property without his knowledge. Mr. Recupito asked if they were working on the neighbor's property. Mr. Bowman responded in the affirmative.

Mr. Bowman stated there had already been a fence there that he was looking to re-install. The only reason he had removed it initially was because of the weeds that had grown into the fence.

Mr. Recupito asked the Petitioner how many feet of yard would be outside the fence if he were to put it flush with the house. Mr. Bowman stated it would be 13 feet and his lot is only 60 by 70, and he would lose approximately a third of the lot to setbacks.

Mr. Recupito commented that the meeting he was at in December there was discussion on having the Petitioner get in contact with the Fire Chief. Mr. Bowman stated he did not contact the Fire Chief.

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

Mr. Mark McGurk stated he has lived in that area for approximately 24 years and there has always been a fence on that property. He does not have any objections to the Petitioner putting the fence up. The Petitioner is fixing up the house and making it look good.

Mr. Don Koskela stated the Petitioner is creating an improvement for the area, and there are chain link fences already existing in the neighborhood. He has no objections to the Petitioner putting up the proposed fence on his property.

Ms. Murr reminded the Board there had been an e-mail that had been read into the record at the December meeting.

Mr. Recupito closed the public hearing for this item.

Mr. Recupito stated going against Public Safety is going to be something very difficult for the Board to do. They are experts in what they do. If they have an opinion on something, it is based on some form of fact.

Mr. Recupito asked the Petitioner if he made any other changes to his request other than the reduction in height to four feet. Mr. Bowman responded in the negative.

Mr. Kiepura asked if Lee and Dewey Street are the same width. Mr. Bowman responded in the affirmative.

Mr. Kiepura stated the fence on the side lot is no problem. He is inclined to state they need to stick to a setback on both sides of Lee Street and Dewey Street to allow room for first responders. While the Petitioner is claiming the fire engine could not make the turn, does not mean they, as the Board, should make it impossible for first responders in that area. Mr. Bowman stated he understands what Mr. Kiepura is discussing, but there is only one entrance in and out of the neighborhood and the fire engine could not make the turn. However, he is willing to setback.

Mr. Kiepura stated that has no bearing on what they are talking about right now. He is discussing safety for first responders and residents in this community, and having enough room for any first responder vehicle. Thus, he needs to have some setbacks off of the road, and while he understands the Petitioner wants his whole yard fenced in, he still has use of the whole property, just not inside the fence. He does not see a problem with chain link fences, as long as it is the coated style.

Mr. Bowman asked if Mr. Kiepura was discussing the fence-style that is located in South Shore with the black coated chain link fence. Mr. Kiepura responded in the affirmative.

Mr. Kiepura discussed what the Zoning Ordinance allows for fences in the front yard and stated if the Petitioner does the coated chain link fence, he is okay with him having a chain link in the front yard. However, he does need to see some setbacks off of the road.

Mr. Bunge commented he is torn on the request of the Petitioner, due to the size of the Petitioner's lot and the safety considerations for the area. He does agree with Mr. Kiepura that he would like to see some setbacks.

Mr. Recupito stated while the Ordinance does state no chain link fence, the area is a unique area and he agrees with Mr. Kiepura, the request is consistent with the area. The biggest hurdle for him, is the setbacks.

Mr. Wilkening asked for clarification if when they left from the December meeting, there had been instruction for the Petitioner to consult with the Fire Chief. Mr. Recupito responded in the affirmative.

Mr. Wilkening commented what they have from public safety standpoint is the e-mail from December 9, 2021, for consideration. Making decisions for fencing based off of finances is not something they as a Board could do.

Mr. Bowman commented the reason he was asking for the chain link fence was not due to money. It was because he finds chain link fences more esthetically pleasing because it is conducive with the neighborhood.

Mr. Recupito asked Mr. Kiepura where he thought the setbacks need to be on the property. Mr. Kiepura stated that question would need to be answered by the Fire Department. Discussion ensued regarding setbacks and what would be needed for safety vehicles.

Ms. Murr discussed at length the Zoning Ordinance requirements for putting up a fence in a through lot not served by a sidewalk, including setback, height, and material requirements.

Mr. Kiepura asked the Petitioner what type of fence would he put up on Lee and Dewey Street, if the Board does not approve a chain link fence. Mr. Bowman stated he likely would not put up any fence then. He does not like the look of aluminum picket fences. Discussion ensued regarding the style of fence and the Petitioner wanting to put up a chain link fence.

Ms. Murr asked the Petitioner to clarify if he had agreed to reduce the height of the fence to four feet. Mr. Bowman responded in the affirmative. However, he would like to keep the fence five feet on the side yards.

Mr. Recupito entertained a motion for this item as presented. A motion was made by Mr. Wilkening and seconded by Mr. Bunge to deny the Developmental Variance of the Petitioner to place 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 per the Finding of Facts and the clear objection to public safety. The motion passed 3-Ayes to 1-Nay to 1-Present by roll-call vote:

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

Mr. Kiepura asked if the Petitioner could be advised of what he would need to do moving forward with the denial of his petition. Mr. Recupito advised the Petitioner he would need to make a sizeable change to his request, or follow the Zoning Ordinance.

Mr. Kiepura asked what would be considered a sizeable change. Mr. Recupito stated he did not know who would determine what a sizeable change would be and asked Mr. Austgen for clarification on who would determine there has been significant change to the petition. Mr. Austgen stated it would be determined administratively in the Planning and Building Department. If there is a problem in terms of interpretation or modification, they will come to the Board.

Mr. Recupito advised Mr. Bowman if he would like to attempt this again, to meet with the Building Department and see what could be done.

2. 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 next order of business was for the Variance of Use to have multiple tenants in each building on a lot in a B-3 Zoning District and a Developmental Variance to allow the Petitioner to

utilize the natural buffer as screening to adjacent residential zoning; to allow parking in the front yard and side yard; and signage per tenants not to exceed 32 square feet each by Petitioner Mr. Jeff Wiers.

Mr. Recupito asked Ms. Murr if she received a request for deferral on this item. Ms. Murr responded in the affirmative. They are working on some storm drainage items that were requested by the Town Engineer. This item is still continued until there is the determination of the storm drainage. Mr. Recupito asked if they were requesting a deferral until next month. Ms. Murr responded in the affirmative.

Mr. Austgen stated there had been an application made and started with a deferral being requested due to a reanalysis of the project parcel and project by the Petitioner, and asked the Board if this would be the same application or would there be a new petition. Ms. Murr discussed the request on the petition that was applied for not being changed and the study requested by the Town Engineer determining the number of tenants they could have due to the impact on the building size from the study.

Mr. Wilkening stated he disagrees with Ms. Murr's comments, as the original request had a tenant square foot ratio, whereas this is open-ended. Ms. Murr stated the original request did not have an open-ended square foot ratio. Discussion ensued regarding the potential number of tenants occurring and the original discussion that occurred at the Plan Commission and the BZA and the Petitioner being asked to refine their number of tenants and bring it back to the BZA.

Mr. Recupito asked if they would be present at the March Meeting. Ms. Murr stated she would advise them to be at the next meeting with an update. Further discussion ensued at length regarding the request for multiple tenants and having the number of tenants be defined, and when the petition would need to be re-applied for and re-advertised.

Ms. Murr advised the Board, if they were to accept the request for a deferral, for their motion to have the Petitioner to attend the March meeting, and to define the number for multiple tenants.

Mr. Recupito entertained a motion for this item. A motion was made by Mr. Wilkening and seconded by Mr. Kiepura to defer this item to the March 2022 meeting with the Petitioner present at the next meeting to give an update, make any written reports available to the Board, and to quantify the number of tenants. The motion passed unanimously by roll-call vote:

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

3. 2022-01 – Kijewski – Developmental Variance

Petitioner: Michael Kijewski

Vicinity: 9827 West 150th Court, Cedar Lake, IN 46303

Mr. Recupito stated the next order of business is a Developmental Variance to allow the Petitioner to have a 10-foot by 16-foot, 160 square foot shed 5 feet 3 inches from the eastern property line by Petitioner Mr. Michael Kijewski. Mr. Recupito asked Mr. Austgen if the legals are in order for this petition. Mr. Austgen responded in the affirmative.

Mr. Kijewski stated he is needing the variance because the Ordinance wants to have 6 feet between the property line and the accessory structure, and he only has five-foot three-inches on the east property line.

Ms. Murr stated one of the unique issues with the triple corner property is the setbacks and being a corner, through lot, there is a 35-foot building line in the rear yard setback. He would need to ask for a variance for a shed anywhere in his yard.

Mr. Recupito asked the Petitioner if he had time to evaluate his plan. Mr. Kijewski responded in the affirmative and stated he talked to Ms. Murr. She had advised him that a pool would not add square footage to the lot coverage. Ms. Murr commented on the same.

Mr. Recupito asked if decking would count towards lot coverage. Ms. Murr stated wood decking would. However, concrete would not, so if there was a concrete slab around the in-ground pool this would not count towards lot coverage. The Petitioner's current lot coverage, including the requested shed, has him at a 20.4% lot coverage.

Mr. Recupito asked the Petitioner what style of deck he intended to put for his pool. Mr. Kijewski stated he plans on an inground pool with a patio around it.

Mr. Wilkening stated one of the other comments they had was if anything would need to move for the pool, and discussed if this Developmental Variance is granted and he creates his own hardships it would be difficult to request another Developmental Variance. Ms. Murr stated she reviewed the application with Mr. Kubiak and nothing would need to be moved. The rear yard has been defined due to putting in the fence.

Ms. Murr commented she likes the fact the Petitioner is meeting the 10-foot separation between the house and the shed. Another option could be to move it closer to the house and further away from the property line by approximately nine-inches. He would then meet the six-foot setback from the property line. Mr. Kiepora stated he likes having the greater separation between the house and the shed.

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

Mr. Recupito advised the Petitioner there has to be a reason for the request other than "I want", and why he cannot meet the standards set by the Zoning Ordinance. Mr. Austgen advised the Board for a Developmental Variance it is not a hardship; it is a practical difficulty standard. A hardship is in a Variance of Use and the practical difficulties of his lot is that it is a triple corner lot and setbacks. This is the criteria that would count towards a Developmental Variance.

Mr. Recupito asked if the structure would be inside the building. Ms. Murr stated it would not because the building line for the side will go on is eight and a half feet and the request is for five-foot three-inches from the property line. For an accessory structure, he only needed to be six feet from the property line.

Mr. Recupito entertained a motion for this item. A motion was made by Mr. Kiepora and seconded by Mr. Wilkening to approve the Developmental Variance to allow the Petitioner to have a 10-foot by 16-foot, 160 square foot shed 5 feet 3 inches from the eastern property line with the Finding of Facts. The motion passed unanimously by roll-call vote:

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

4. 2022-02 – Gasche – Developmental Variance

Petitioner: Skip Gasche

Vicinity: 134th & Elm, Cedar Lake, IN 46303

Mr. Recupito stated the next order of business is a Developmental Variance to allow the Petitioner to have front yard setbacks of 25 feet on Elm Street and 134th Place; a rear yard setback of 15 feet; and lot coverage of 2,100 square feet being 29.2% on a corner lot in a prerecorded subdivision by Petitioner Mr. Skip Gasche. Mr. Recupito asked Mr. Austgen if the legals are in order for this petition. Mr. Austgen responded in the affirmative.

Mr. Gasche stated he has some new information for the Board. He took their comments into consideration and reduced the square footage of the house. He is only looking for one variance on Elm Street, and is requesting a six-foot variance from the 30-foot setback on Elm Street. Mr. Gasche discussed the changes he made to the original plan, including reducing the square footage to 1,795 square feet, moving it further from 134th Place, increase the backyard to 19 feet, and have the side yard to the south being 9 feet.

Mr. Recupito asked the Petitioner if he was exceeding the minimum for the rear yard and side yard setbacks. Mr. Gasche responded in the affirmative.

Mr. Recupito asked the Petitioner if he was asking for 24 feet setback along Elm Street. Mr. Gasche responded in the affirmative.

Mr. Gasche requested that all of the Board take into consideration the changes he has made to his original plan.

Mr. Recupito asked Ms. Murr if she had any comments for the Board. Ms. Murr stated the request of the Petitioner has been reduced from the original request read into the record is reduced to just one variance request for a 24-foot setback off of Elm Street.

Mr. Wilkening asked the Petitioner if he anticipated any storm water issues on this property. Mr. Gasche stated he does not, he talked with Glenn that morning and they put a drain in at the new house that L&M built. He was going to work with Glenn to get all of his preliminary designs finalized, get a survey and stormwater engineer and will put a structure in to help reduce storm water if needed.

Mr. Recupito asked what the reduced size of the house is. Mr. Gasche responded it was reduced to 1,795 square feet based off of lot size. Mr. Recupito asked if that would be with or without the garage. Mr. Gasche stated the square footage included the garage. Ms. Murr stated he would no longer need the variance for the square footage because he would be under the allotted lot coverage.

Mr. Gasche advised the Board he was trying to work with everyone involved, and he did not think turning the house to face 134th Place would benefit anyone.

Mr. Wilkening asked if final grade is determined by the Petitioner's engineer. Ms. Murr responded in the affirmative and stated with the lot being located in a pre-platted older subdivision, it would also be reviewed by the Town Engineer prior to approval of any plan or building of the house. This project would require an as-built be turned in.

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

Ms. Marjorie Larmon stated she had not been advised of any of the changes that occurred from the last meeting. Her main concern is what is the distance between her property line and the proposed house. Mr. Gasche advised Ms. Larmon from the property line to the back of the house there will be 19 feet. Mr. Recupito stated he believed this was in excess of what is required. Mr. Gasche responded in the affirmative.

Ms. Larmon stated her other concern is what effect will the house have on her property and if it would affect her view or cause flooding. Her side yard off of 134th Place already floods, as well as the back of her property. When the property had gone up for sale, it had been for three lots, and she was unsure if he bought all three lots.

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

Mr. Recupito asked the Petitioner if he was able to answer some of Ms. Larmon's questions. Mr. Gasche stated regarding the drainage issues, he did not know of any drainage issues on there. It would be up to his engineer and the Town on the drainage. He does know a storm water drain has been put in for the L&M Property, and drainage would need to meet Town's standards.

Mr. Recupito asked Ms. Murr if Mr. Oliphant would need to review and approve this build. Ms. Murr responded in the affirmative.

Mr. Recupito asked if he could address the concerns for site lines. Mr. Gasche stated they are keeping the 30-foot setback off of 134th Place, so the site lines will remain. Mr. Wilkening advised the Board he had Mr. Salatas show Ms. Larmon the photograph included in their packet that illustrates the site lines.

Mr. Recupito asked the Board if they have any further comments. Mr. Bunge stated at the last meeting there had been discussion on adding any future deck or patio that the Petitioner be aware he would not be able to show much by hardship if he wants to do any further improvements to the lot.

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 a 24-foot setback in a front yard on Elm Street per the Finding of Facts. The motion passed 4-Ayes to 1-Present by roll-call vote:

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

5. 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 is for a Developmental Variance to allow the Petitioner, Grand Prize Auto, to park 6 cars on 13324 Wicker Avenue in the front yard and allowing 2 uses on a lot.

Mr. Robert Henn, Henn & Sons Construction Services, Inc., present on behalf of the Petitioner, stated he is the property owner of both parcels that are being affected. If it is the pleasure of the Board, he will present the petition for Mr. Majeski.

Mr. Recupito asked Mr. Austgen if it was allowable to allow Mr. Henn to present the petition. Mr. Austgen stated Mr. Majeski is present and can confirm that Mr. Henn can present the petition. Mr. Majeski agreed for Mr. Henn to represent him for the petition.

Mr. Recupito asked Mr. Henn the reason for their request. Mr. Henn stated the two parcels had originally been three separate parcels and Mr. Majeski had parked his cars on what had been the north two parcels, without any issues. After they came in and presented the proposed addition for All Tire, the request had been made to combine those three parcels into two parcels to meet the lot size Ordinance for All Tire. When they combined the parcels, part of the area that Mr. Majeski used for Grand Prize Cars was taken away. They are only talking about the small angled sliver on the front of the property. The Board should have a signed and notarized letter from Mr. Jeff Frazee of All Tire stating he has no objection to allow Mr. Majeski to park his cars there. Ms. Murr advised the Board the letter Mr. Henn is referring to is located in their meeting packets.

Mr. Recupito stated he has concerns with the way the petition was advertised. There is a Developmental Variance and a mention of uses on a lot and asked how they should handle this petition. Mr. Austgen stated it looks like it is a parking or storage variance of sort. Usually, they have Developmental Variance that are area oriented, typically height, width, size, setbacks, and the like.

Mr. Kiepora asked if Mr. Majeski owned the property with the triangle on it, he would not need the Variance. Mr. Austgen stated he was not certain on that. This is a unique parcel and what started as a subdivision plat has turned into a misunderstanding on how the parcel or adjacent parcel would be utilized when it becomes subdivided. So, he is unable to answer Mr. Kiepora's question.

Mr. Kiepora stated when the deferral occurred last month, he was under the impression that Mr. Majeski needed to obtain permission from the property owner and All Tire to use that strip of land. Mr. Austgen stated Mr. Majeski is not the owner of the land. The application for the Variance was made by Mr. Majeski not the property owner.

Mr. Austgen discussed the property has a number of use issues, and that is not a Developmental Variance. The clarity of what style of Variance the Petitioner is here for is on the Petitioner to elaborate upon. What they have noticed in the Town's file is there is improper parking and violation of the Town's Zoning Ordinance. Mr. Majeski has paid a citation fine for violation that had been issued by the Town Manager and that had been discussed at the last BZA meeting. Discussion ensued regarding the petition and the discussion from the previous meeting of having all interested parties present at tonight's meeting.

Mr. Recupito asked Mr. Austgen if he could clarify if the petition should be a Developmental Variance or a Variance of Use, so when they get to the portion of the meeting to make a motion the Board is aware

of if it is a recommendation to the Town Council or a Board decision. Mr. Austgen responded it is a Use and a question of how the property is being used versus the Town's Zoning Ordinance Codes and Conditions.

Mr. Austgen advised the Board in October the Town Manager reached an understanding with Mr. Henn and Mr. Frazee that the parking issue would be resolved in a month. He has record of that communication and the memo of understanding from the Town Manager. It appears to him that as a consequence of that communication, there is an acknowledgement or admission of noncompliance with the Code.

Mr. Henn stated he might be able to clarify some of the points that Mr. Austgen made. He and Mr. Eberly, the previous Town Manager, had multiple conversations regarding the parking issues. There had been conversations through the summer and the fall, and most of those conversations had occurred due to the construction of the addition. They had to displace all of All Tire's customer service cars, and they put them temporarily in the front yard while they were working on the addition. In addition, where the new parking lot was created for All Tire, NIPSCO had had a distribution area for all the buildings on the property that needed to be moved. This needed to be moved in order for them to place the parking lot in the approved area. He had had to reach out to Ms. Murr to obtain help with NIPSCO to move what needed to be moved.

Mr. Henn stated they could not put in the parking lot in and move All Tires cars to the proper location until the distribution was moved. It finally got relocated in November 2021. They missed the season to pave, and were unable to pave the lot. The conversations that Mr. Austgen is referring to are the conversations concerning the All Tire cars that they had been moving around during the construction phase. The petition they are requesting at tonight's meeting is just for the little triangle next to the south entry that Mr. Majeski would like to continue to utilize for his car lot. This has no effect on All Tire's business. Per the signed letter, Mr. Frazee of All Tire has no problems with Mr. Majeski utilizing that area.

Mr. Kieppa asked Mr. Austgen where the violation is occurring. Mr. Austgen stated the violation is occurring because the lot is exceeding the number of uses for the lot. Mr. Kieppa asked for further clarification regarding the violation. Mr. Austgen advised only part of the lot is being utilized for the car dealership and the other part is being by All Tire.

Mr. Recupito asked if only All Tire was approved to utilize the lot and they are present for a second use. Ms. Murr responded in the affirmative and advised the Board Mr. Eberly received the application from Mr. Majeski requesting approval to vary from Zoning Ordinance, Title 20, Section 9, and this is how it was advertised. She did confer with Mr. Eberly regarding the advertisement for this Petition. Discussion ensued regarding how the request was advertised and the documentation Ms. Murr included in the Board's packet.

Mr. Wilkening asked Ms. Murr about the legal definition for the lot that contains Grand Prize Auto. Ms. Murr advised that it is not a lot of record and that there had only been a One (1) Lot Subdivision done for the property that All Tire is located on.

Mr. Wilkening asked what the property having the two businesses located on it are categorized as. Ms. Murr responded they are classified as being legal Non-Conforming.

Mr. Wilkening asked when there had been the approval had been granted for the two businesses on one lot. Ms. Murr advised Mr. Wilkening she did not have an answer for him at this time. Mr. Wilkening

discussed his confusion regarding this petition, if the petition should be for the use of three businesses on one lot, as well as, the fact there had been a car parked where it should not have been earlier in the day.

Mr. Henn stated the three existing business have no issues with one another and this property has been this way for a long time. To simplify what they are wanting to do, is to allow Mr. Majeski to park six cars on All Tire's property that is not being utilized by All Tire.

Mr. Kiepura commented there are a couple of letters included in their packet from Henn and Sons and All Tire indicating their approval of the use request. He would like to have clarification on where the violation of the Code is occurring. Mr. Recupito stated when All Tire became a lot of record it had to comply with the current Zoning Ordinance. Now, the Petitioner is present requesting to have two uses on a single lot and for there to be parking in the front yard setback.

Mr. Austgen discussed what had caused for the parcel that All Tire is on to become a One (1) Lot Subdivision, with the recordation being properly completed with waivers, only for the Petitioner to request for the property be utilized as though it is Old Cedar Lake, as mentioned by the Petitioner. Mr. Austgen advised the Board it is their decision if this moves forward or not. Discussion ensued regarding the cars being parked in the requested area and if there would be a violation if approved.

Mr. Austgen advised the Board their decision could be as much about this petition as it about potential future petitions. There are commercial properties immediately south and nearby that will be coming soon, and they will be adjacent to the Old Cedar Lake properties. Where the Board draws the line and sets the standards is important.

Mr. Kiepura asked if the parcel Grand Prize Auto is located on be made into a One (1) Lot Subdivision. Mr. Austgen responded in the affirmative and commented when the first One (1) Lot Subdivision for All Tire had been requested, this should have been platted at the same time.

Mr. Kiepura asked if a One (1) Lot Subdivision were created, if it would be easier to grant the parking. Mr. Austgen responded there is not a simple answer to his question. There is a totality of circumstances with this petition and explained the circumstances.

Mr. Kiepura discussed there being two businesses on each parcel, the auto body shop and the car lot being on one property and All Tire and the car lot being on the second. If the Petitioner were to create a second One (1) Lot Subdivision, they likely would not move the triangle being requested for use in the petition to the other lot after all the work that went into creating the original One (1) Lot Subdivision.

Mr. Henn stated the reason they had went from three lots in that area to two was when they decided to create a One (1) Lot Subdivision for All Tire and met with staff, it was recommended to create the two lots to help meet setbacks and Town requirements for the property. Which is why they sought variances from the BZA and requested waivers from the Plan Commission. The only thing that had not been examined was how the creation of the One (1) Lot Subdivision would affect Mr. Majeski. They are just attempting to get Mr. Majeski back to where he had been. He understands the Town's points, but feels this is a unique set of circumstances. They would be willing and in favor of only allowing the use to go with Mr. Majeski's business and if Mr. Majeski ever leaves, the use would go away.

Mr. Recupito asked if there were any public comment for or against this Variance.

Mr. Recupito read a letter from Mr. Frazee into the record. This letter will be located at the end of the record.

Mr. Recupito closed the public portion for this item.

Mr. Recupito asked Ms. Murr if she had any further comments from the Building Department. Ms. Murr commented with the request for six cars, to have a definition of where those six cars will be, will they be in 10 by 20 parking spaces or a different size parking space. As well as making sure there would be compliance with those spaces. She knows it is not currently striped and that vehicle sizes can change, but as they defined the parking area for All Tire, having the parking spaced defined for Grand Prize Auto so there is no confusion on parking. Discussion ensued regarding where Mr. Majeski defined where the cars will be parked and his statement at the previous meeting of changing how he parks the cars.

Mr. Recupito asked Mr. Henn what happens if Mr. Majeski is not able to park cars in the requested area. Mr. Henn responded his business plan is based on 25 cars and has been approved by the Secretary of State six years ago to park 25 cars in that area. Without this approval, he cannot meet his approved business plan. The spaces next to the office are for the patrons, so all his inventory needs to be in the front.

Mr. Wilkening asked Ms. Murr for clarification regarding determining how many uses occur on the All Tire lot and if all three businesses receive deliveries through the entrance located on that lot, if it would cause for three uses on that lot. Ms. Murr deferred to the Town Attorney.

Mr. Bunge stated this petition appears to be a Variance of Use. Mr. Recupito stated he is of the thought it is both a Variance of Use and a Developmental Variance, and he wants to make sure they, as a Board, handle this petition correctly when they act on it. Mr. Austgen advised at minimum it is a Variance of Use, and it is the determination of the Board how they construe the parking of six cars in the front yard.

Mr. Recupito asked if they act on the petition as a Variance of Use. Mr. Bunge commented it is not advertised as a Variance of Use. Mr. Austgen stated there are multiple components to the application, they have Developmental and Variance of Use present.

Mr. Kiepora stated the Petition is not developing anything, they are asking for use. The way he views it is they could make a motion to deny the Developmental Variance and make a motion to send a Favorable Recommendation for two business being on one lot for parking in the front yard for the six cars.

Mr. Kiepora asked Mr. Austgen if this is possible. Mr. Austgen stated they could take this path and it would cover both filings of the petition.

Mr. Kiepora stated each case that is brought before the Board is treated individually. So, any future petition would need to bring their petition in and prove to the Board why they would need a variation from the Town's Zoning Ordinance. Mr. Austgen stated to allow him to worry about the potential of setting any precedent. It is the Board's decision on the petition.

Mr. Recupito stated if they give any form of approval on this, they consider Mr. Henn's statement of limiting this use to Mr. Majeski and advised the Board to take into consideration everything discussed by Mr. Austgen.

Mr. Jackson asked how they would enforce the parking of just six cars on the lot. Mr. Recupito stated it has been enforced to an extent, and that is why they received the petition. Mr. Austgen stated there had been a citation and a fine paid. Discussion ensued on how they could enforce the six spots on the lot if any type of approval is given and having six striped parking spaces in the area requested.

Mr. Recupito asked Mr. Salatas if he had any thoughts with this petition. Mr. Salatas responded in his opinion Mr. Kiepura stated it pretty appropriately, with it being more of a Variance of Use. If there is a decision made, for enforcement matters, he thinks the striping would be beneficial for the Town moving forward.

Mr. Wilkening stated there is not a way to enforce this item, and he agrees when the building was being added onto it displaced All Tire's customers' cars, but they did not have prices in the windows. As he stated earlier, there was a car parked in a spot where it should not have been earlier.

Mr. Henn asked when this became an issue, as this property has been this way for a long time, and when did tickets start being issued for parking in an area he has been parking in for years. Mr. Wilkening responded when there had been discussion of creating the One (1) Lot subdivision, he had had asked about the cars. The answer had been it was going to remain the same. He had stated that it could not remain the same due to the creation of the One (1) Lot subdivision and the new lot having to follow current Town Codes.

Mr. Wilkening advised this was more about having two businesses on one lot. Mr. Henn stated he understands that, which is why they are okay of allowing the use to be just for Mr. Majeski, and anyone who would be a tenant after Mr. Majeski would not be able to cross the line. At that time, they would restripe it or put-up bollards or the like to define the property line.

Mr. Jackson asked how they could ensure that, if it would be by recording something that states it goes back to the way it was. Mr. Austgen advised the certification and the action of the Town Council would reflect the use only being allowed for the current tenant. It would be in the records of the Town, as well.

Mr. Kiepura asked if they would not need the Developmental Variance for this petition. Mr. Austgen responded it would depend on how they make the motion. They could include in a recommendation to the Town Council a combination of the request and eliminate the Developmental Variance by a motion to deny as suggested earlier by Mr. Kiepura.

Mr. Recupito entertained a motion for this item. A motion was made by Mr. Kiepura and seconded by Mr. Jackson to deny the Developmental Variance to allow for the parking of six spaces in the front yard as presented by the Petitioner based upon the Public Hearing Record that occurred at the 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. Recupito entertained another motion for this item. A motion was made by Mr. Kiepura and seconded by Mr. Jackson to send a Favorable Recommendation to the Town Council to allow for the use of two

businesses on one lot and to allow for the parking of six cars in the area mentioned in the Petition; these six cars will be in a striped area; and this use is for the current tenant only, should the tenant leave the premises, the parking area will revert back to its original use per the Finding of Facts. The motion passed by 3-Ayes to 2-Nays by roll-call vote:

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

Mr. Recupito asked Mr. Austgen with this petition becoming a Variance of Use, how will the timing affect this in relation to the Town Council. Mr. Austgen advised this would take a couple of weeks, they will need to see the minutes because of how the motion is made and the record. The Town Council is meeting the following Tuesday and this will not be complete by then. Discussion ensued informing the Petitioner the timeline following this meeting for the Town Council to potentially approve the item and if and when he can resume parking his cars in the area requested.

New Business:

1. 2022-04 – Collins – Developmental Variance

Petitioner: John Dan & Terri L Collins

Vicinity: 13857 Huseman Street, Cedar Lake, IN 46303

Mr. Recupito stated the first order of New Business was for a Developmental Variance to allow the Petitioner to build an addition with a six-foot seven-inch side yard setback on the north property line consistent with the existing home by Petitioner Mr. John Dan and Ms. Terri L Collins. Mr. Recupito asked Mr. Austgen if the legals are in order for this petition. Mr. Austgen responded in the affirmative.

Mr. Dan Collins stated they are wanting to enlarge their current home. The current home is only 960 square feet and was built in the 1930s. He wants to remodel the existing house and put an addition on to increase the square footage of their house.

Mr. Recupito asked Ms. Murr if she had any comments from the Building Department. Ms. Murr stated they wanted to put the proposed garage and proposed addition in line with the existing setbacks to match the existing home, which is six feet seven inches. The Petitioner is asking for consideration to be consistent with their existing home.

Mr. Recupito asked if foundation, walls, and such would all be consistent with the existing structure. Mr. Collins responded in the affirmative.

Mr. Recupito commented on the uniqueness of this portion of the lake with the 10-foot walkway and asked Ms. Murr if lot coverage would be an issue with the proposed addition. Ms. Murr stated the lot coverage takes into consideration the entirety of their lot and she reviewed this petition with Mr. Kubiak.

Mr. Kiepura asked if the request is just for the building addition when there is a proposed addition and garage shown on the plat. Ms. Murr clarified that when she created the petition request for advertisement, that the addition would cover the proposed addition and the garage. Discussion ensued regarding the proposed addition and the garage being separate items and how the petition is worded.

Mr. Recupito asked the Petitioner if he has plans for the home that he has submitted. Mr. Collins stated he does have plans, but he did not include them. Ms. Murr commented they just included the Site Plan to demonstrate where the proposed additions are.

Mr. Recupito asked Ms. Murr if she had copies of the plan on hand. Ms. Murr responded in the negative.

Mr. Recupito asked the petitioner if the addition was going to be a single-story addition or taller. Mr. Collins responded it would be a single-story addition. The current house is a walk-out on the lake front.

Mr. Kiepura asked if the existing garage would be demolished. Mr. Collins responded in the negative.

Mr. Bunge asked the Petitioner if his property ends along the walk-way or if it continues beyond the walk-way. Mr. Wilkening commented it goes beyond because the walk-way is an easement.

Mr. Jackson asked what would be the percentage of lot coverage with the proposed additions. Ms. Murr advised she did not have the percentage currently on here, but it would be under the 25% lot coverage. Mr. Jackson asked if the proposed deck is included in their calculations for lot coverage. Ms. Murr responded in the affirmative. Discussion ensued regarding the Petitioner wanting to keep in line with the existing home with their addition and why the Petitioner wanted to follow the setback on the north end of the property line.

Mr. Wilkening left the dais and sat in the audience.

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

Mr. Jerry Wilkening stated he was speaking on behalf of the adjacent property owner to the north. The submittal survey appears to be fairly accurate; however, he has a couple of concerns. Mr. Wilkening discussed the history of the area with the properties being built upon a sewer and the trouble with the walking path in the area.

Mr. Wilkening stated his concern is accuracy without having talk of foundation and top footing, and the grade after the addition is built. He would like to see a few more details included and mentioned concerns about the existing power lines going over where the proposed deck would be.

Mr. Recupito commented he believes the grade would need to be examined, especially in a house near the lake. Mr. Wilkening commented knowing the proposed height of the new addition or how it would be built and affect backfill would be beneficial.

Mr. Wilkening stated on the lake side the existing foundation is out of the ground a total of four feet and discussed the old well pump house on the property. This well pump property is not owned by the Petitioner, but is situated mostly on their property. He does not know the distance between the well house and their proposed addition. Mr. Wilkening discussed at length his concerns for the details that he would like to see and consideration for the way the stormwater would flow.

Mr. Kiepura asked if the concerns Mr. Wilkening is mentioning would be answered at the Plan Commission. Mr. Wilkening commented this item would not be at the Plan Commission. Mr. Kiepura then asked if these questions would be answered by the Building Department when they apply for the permit and Mr. Oliphant review this item. Ms. Murr stated they would have what is being proposed reviewed by

Mr. Oliphant, especially since it is in an older pre-platted subdivision and knowing the existing issues in that area. Mr. Wilkening discussed concerns with giving an approval

Mr. Kiepura asked Mr. Wilkening what level of detail would need to be provided. Mr. Wilkening stated he thinks a final ground and top of foundation at minimum, and determining the distance between the deck and the well house. Discussion ensued regarding the well house, including what is located inside and previous discussions that have been had with the HOA that is to maintain the well house.

Mr. Wilkening stated the final grade was his greatest concern and what they planned on which could affect the north façade. Mr. Kiepura asked Mr. Wilkening if his public comment was for the project. Mr. Wilkening stated he is for the project, as long as the details that are his concern are addressed and taken care of.

Mr. Austgen asked Mr. Wilkening how long the well structure has been out of commission for. Mr. Wilkening stated it has been approximately 40 to 50 years. Mr. Austgen commented that it is not likely to be recommissioned. Mr. Wilkening commented it was not likely and discussed his conversations with the HOA to allow the Collins to buy the property. Mr. Austgen discussed the well house, including what it would mean to the adjacent property owners and whether there would be any function in the future. Further discussion ensued regarding the well house including encroachment into neighboring properties and the potential hazard of the well building.

Mr. Recupito asked if there were any further comments for or against this item. None was had. Mr. Recupito closed the public hearing for this item.

Mr. Wilkening returned to his seat at the dais.

Mr. Recupito stated the concerns discussed by Mr. Wilkening are valid regarding the flow of water and run-off. Mr. Collins stated he has talked with two excavators and he shares similar concerns. He had to put an expensive inside drainage system because there is no drain tile in his house. He has discussed this with Mr. Wilkening in the past and he agrees with not having any water going onto anyone else's property as well. They are considering some swales and in front of the garage he is going to be putting in a drain.

Mr. Collins stated in regards to the well house keeping it where it is located is beneficial because there is currently no major water problem. Mr. Wilkening stated the well house is currently 12-foot by 12-foot, and there is a major grade change, so it acts as a retaining wall.

Mr. Collins stated he has a print out of the plans he has for the additions and, if the Board would like, he would leave a copy of the plans. Mr. Collins gave a copy of his plans to the Board for their review.

Mr. Wilkening and Ms. Murr both asked the Petitioner if the north façade would have any bump outs. Mr. Collins responded in the negative, the addition will stay flush with the existing structure.

Mr. Wilkening asked if it was going to be two-stories on the lake side with a walk out. Mr. Collins and Mrs. Collins both stated it would be a single-story with a walk out basement.

Mr. Recupito asked if the elevation of the existing roof line will change. Mr. Collins stated it should stay the same. Discussions ensued about the plans Mr. Collins presented to the Board and the walk out for the basement.

Mr. Recupito asked for some clarification with the elevation for the grade, after the completion of the project, there will be an increase of grade. Mr. Collins clarified they will be reducing the grade. Mr. Recupito asked if the Petitioner did not intend to bring the grade up around the house with any type of soil. Mr. Collins responded in the negative and all he wanted to do was make a swale to deter the water so it can keep flowing down towards the lake.

Mr. Wilkening asked if the basement was going to walk out at the existing grade. Mr. Collins responded in the affirmative.

Mr. Recupito asked the Board if they had any further comments. Mr. Wilkening stated a good review from Mr. Oliphant would be beneficial. With the additional information provided he has received some of the information he was looking for. Mr. Bunge discussed including a review from the Town Engineer in any motion for this item.

Mr. Wilkening asked if the garage was going to share the same roof line as the existing house. Mr. Collins stated it will match up with the existing house.

Mr. Recupito entertained a motion for this item. A motion was made by Mr. Kiepura and seconded by Mr. Jackson to approve the Developmental Variance to allow the Petitioner to build an addition with a six-foot seven-inch side yard setback on the north property line consistent with the existing home and to include the addition of the proposed garage contingent upon Engineering Approval from the Town Engineer prior to issuance of Building Permit to evaluate the drainage of the property per the Finding of Facts. The motion passed 4-Ayes to 1-Present by roll-call vote:

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

2. 2022-05 – Kamp – Developmental Variance & Variance of Use
Petitioner: Tom & Lori Kamp
Vicinity: 12715 Parrish Avenue, Cedar Lake, IN 46303

Mr. Recupito stated the next order of business was for a Developmental Variance to allow the Petitioner to build a house 21 feet from Parrish Avenue, and 15 feet from Westend Court and to allow the existing garage to be used on the property with electric prior to construction of the primary residence and a Variance of Use to allow for a second residential use for an in-law suite, on a lot in an R-1 Zoning District by Petitioners Mr. Tom Kamp and Ms. Lori Kamp. Mr. Recupito asked Mr. Austgen if the legals are in order for this petition. Mr. Austgen responded in the affirmative.

Mr. Kamp stated he was able to buy the existing lot, to which there is an existing garage and well. He would like to maximize use of the property, including the existing driveway, with a home they designed. The Plat of Survey submitted to the Board should display the house they would like to build. The proposed house would be parallel with Parrish Avenue. As such, they do need a front yard and back yard variance.

Mr. Recupito asked Ms. Murr if she had any comments from the Building Department. Ms. Murr stated the property would need a 21-foot front yard setback along Parrish, and a 15-foot setback along Westend

Court. This project has been discussed at a staff-level. Westend Court was determined to be more of an access easement than an actual platted court.

Mr. Recupito asked if this would be another example of a front yard could be designated as a rear yard or would both sides be considered a front yard. Ms. Murr stated both sides would be considered a front yard. Discussion ensued regarding what the setbacks were supposed to be off of Parrish Avenue and Westend Court and where the house would be able to be built on the lot following the setbacks required in the Zoning Ordinance.

Mr. Kiepura asked if the existing garage would be torn down. Mr. Kamp responded in the negative and stated he would like to continue to utilize the garage, which is why there is a Variance request for the electrical. He understands that the Town Ordinances requiring a primary structure to exist prior to establish a secondary building. For this property the prior primary structure burnt down and he would like to have temporary power to the garage.

Mr. Kiepura asked if after the Petitioner moves into the new home, he anticipates keeping the existing garage. Mr. Kamp responded in the affirmative.

Mr. Kiepura asked Ms. Murr if she had reviewed the total lot coverage for what is being proposed. Ms. Murr responded she had and that is the reason for how she advertised it as she did. Mr. Kiepura asked what the percentage of lot coverage would be. Ms. Murr stated it would be at 23.75% with the proposed house and the existing garage.

Mr. Recupito asked the Petitioner to discuss his request for the Variance of Use with the second residential use. Mr. Kamp stated both himself and his wife have aging parents. As their health needs change, they would like to be able to assist their parents. As such, they would like to utilize their home to help their parents as needed.

Mr. Recupito asked if this in-law suite would have a separate service. Mr. Kamp stated it would have one service, as it would be one home. There would just be a separate front entrance. Mr. Jackson asked if the double doors that are indicated on the plans go to two separate sections of the house. Mr. Kamp stated the double door is the main entry into the great room and the other double doors would be an exit to a deck. The in-law suite has a separate entrance to the front right, the furthest south entrance. Discussion ensued regarding the in-law suite, its entrance, and the layout of the house.

Ms. Murr advised the Board she conferred with legal on how to advertise this petition. As discussed by the Petitioner, there had been a home that was burnt down by a fire.

Mr. Wilkening commented the property shows ownership to the middle of the street and asked if that would not need to be cleaned up. Ms. Murr stated she had previously discussed that with Mr. Eberly, and these properties are platted as a subdivision in that way. Discussion ensued regarding if it would be necessary to clean up the property lines for this property.

Mr. Kiepura asked the Petitioner if they would have access from their portion of the house to access the in-law facilities, and once there was no longer a need for the in-law suite, what were their intentions for that space. Mr. Kamp stated there were no plans to rent out that space, and the only possibility they considered is helping a family in need or a place to help serve the community.

Mr. Kiepura asked if the Petitioner needed to have the Variance of Use for the in-law suite. Mr. Austgen discussed in his private work and work in other communities he has worked in handling this type of situation as a single-family residence. Ms. Murr stated she discussed this item with Mr. Kubiak and it was having the two kitchens on one floor that created the need for a Variance of Use because they were defined as two separate living spaces. Discussion ensued regarding the Variance of Use and it allowing the Board some oversight in the decision process.

Mr. Wilkening asked where the setback of 21 feet off of Parrish Avenue is from the road. Ms. Murr stated it is a 21-foot easement from the property line and discussed there is a requirement of a 40-foot setback required off of Parrish Avenue. Ms. Murr indicated on Lake County GIS where the 21-foot setback would be located and discussed that Parrish Avenue has a 60-foot Right of Way. Mr. Bunge clarified there is a 40-foot setback off of Parrish Avenue. Ms. Murr responded in the affirmative. Discussion ensued regarding the Right of Way and the setbacks for Parrish Avenue.

Mr. Recupito asked the Petitioner for the total square footage of the proposed home. Mr. Kamp stated the total square footage is approximately 2,645. Mr. Recupito asked if that included the garage. Mr. Kamp responded in the negative. Mr. Wilkening commented that what the Petitioner is wanting to build will not have a garage. Mr. Kamp stated there will be a two-car garage. Mr. Wilkening discussed that the garage would become an accessory structure.

Mr. Wilkening asked where the closest house is to the east of the property. An unknown audience attendee responded it is a small house behind the Petitioner's property. Mr. Kamp stated he believes it is owned by Mr. John Foreman and there are plans to tear the house down in the spring. Ms. Murr stated it was Mr. Jackson Foreman who owns the property.

Mr. Wilkening commented once the Petitioner completes his home, there will not be a home behind him. Mr. Kamp stated that there would not be a house behind him, to his knowledge.

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

Mr. Recupito asked Ms. Murr what the minimum square footage size of a ranch house currently allowed by the Town's Ordinance. Ms. Murr responded the minimum square footage required by the Ordinance is 1,500 square feet.

Mr. Recupito stated a problem that he is currently having for this item is that the size could be the reason for the variance request. The Board has discussed in the past, if the minimum required build can be completed and done without a variance, should a variance be granted. He understands the reasoning for the Variance of Use and does not currently have any issues with that portion of the request. He would like for there to be some form of protection to keep the property from becoming a rental or a multi-family income property.

Mr. Kamp discussed when he was first sent a plat for the property with the setback that followed the requirements by Town Ordinance, there was an 80 to 90-foot triangle and where the current driveway is located was the point where the two setbacks for both Parrish Avenue and Westend Court met. He is not aware of any form of house that would be able to fit within the setback parameters. Mr. Kamp further discussed that he had looked at turning the house around and the problems with turning the house,

including being too close to the garage, needing a new driveway, and having to move the house down to make it fit.

Mr. Recupito asked the Petitioner if they considered building the minimum size house that is required by the Zoning Ordinance. Mr. Kamp responded in the negative and stated the original design they considered was between 1,800 and 1,900 square feet, before the potential of the in-law suite was discussed.

Mr. Bunge stated he likes the idea and the proposal of what the Petitioner wants to do. However, from a public safety stand point, he is concerned about the front yard setback off of Parrish Avenue. Discussion ensued about the 40-foot setback off of Parrish Avenue and the 21-foot setback being the shortest distance between the house and Parrish Avenue.

Mr. Kamp asked the Board, if they receive approval from the Town Engineer, could they put a decorative berm along Parrish Avenue to help serve as protection to their property. Mr. Recupito asked Ms. Murr how putting up a berm would work. Ms. Murr stated it would need to be reviewed by the Town Engineer to ensure it would not have any negative impact upon storm drainage. Further discussion ensued regarding the front yard setback required off of Parrish Avenue and the previous house that had been on the lot.

Mr. Recupito asked what the distance between Parrish Avenue and the existing garage. Mr. Kamp stated he did not know. Ms. Murr advised the distance is approximately 18.7 to 19 feet and that the house that had existed there had been approximately 20.9 feet from Parrish Avenue. Their proposed house would be within the existing footprint and discussed the differences between the layout of the former house and the proposed house.

Mr. Wilkening asked the Petitioner if he had any alternative plans. Mr. Kamp stated he did not currently have any, but if he was required to, he would examine alternative plans.

Mr. Recupito reiterated that the Petitioner is asking for a variance from the Zoning Ordinance, and the Board has to determine why the variance is needed. Currently, to him, the Petitioner is requesting a house that is 1,100 square feet over the minimum requirements of the Zoning Ordinance, which could potentially be the cause for the variance request. Due to this, he would not be in favor of the petition.

Mr. Kiepora commented the closest the house will be to the road is 21 feet, and asked what the furthest point from the road. Ms. Murr stated the house is more angled with the road, but agreed with Mr. Kiepora that the closest part of the house is only 21 feet from the road.

Mr. Wilkening stated he thinks adding a berm is a good idea. Mr. Kamp stated he would like a berm, but did not know if it would pass engineering.

Mr. Recupito asked the Petitioner if he understood the Finding of Facts that the Board has to review when it comes to approving or denying petitions. Mr. Kamp stated he understands where Mr. Recupito is coming from. However, if he is understanding what he is hearing, it would render the lot unbuildable. He did not know how a 1,500 square foot house would fit on that lot without needing a variance for the front yard setback. Discussion ensued on what the Petitioner needs to do to show to the Board their hardship and what they need to approve a petition.

Mr. Wilkening asked to clarify if the house behind this property was or is going to be demolished. An unknown audience attendee advised there is still a small house there. Mr. Wilkening stated his current

issue is the distance from Parrish Avenue, and how far east moving the house he would be comfortable with. However, there does not seem to be anything around there, and as stated by Ms. Murr that area is not buildable. Discussion ensued about the Right of Way for Westend Court and it being a dead-end area and what would happen in the event of a vacation of the Right of Way.

Mr. Recupito asked the Petitioner if he understood the concerns of the Board. Mr. Kamp responded in the affirmative and asked if he should look at potentially vacating the Right of Way. Mr. Wilkening stated it would be a feasible discovery the Petitioner should do.

Ms. Murr asked the Board if there is a potential to vacate the Right of Way, with the potential to no longer need the Developmental Variance, do they want the Petitioner to defer both requests. Mr. Wilkening responded in the affirmative.

Mr. Kamp asked if the Board could approve the use of the property with the in-law suite, if he could make the home fit within the property lines with the Town being agreeable to vacating the Right of Way. Mr. Recupito asked Mr. Austgen for his legal advice. Mr. Austgen stated he would not recommend it.

Mr. Kamp stated at this time he is requesting a deferral.

Mr. Recupito entertained a motion for this item. A motion was made by Mr. Wilkening and seconded by Mr. Kiepura to defer both items for this petition with an update regarding a new plan by correspondence or from the Petitioner at the next meeting. The motion passed unanimously by roll-call vote:

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

3. 2022-07 – Helsel – 5822 Tahoe Place – Developmental Variance

Petitioner: Joseph Helsel

Vicinity: 5822 Tahoe Place, Cedar Lake, IN 46303

Mr. Recupito stated the next order of business was for a Developmental Variance to allow the Petitioner to install a fence in the front yard setback of a corner lot with a setback of 15 feet from Lakeside Boulevard by Petitioner Mr. Joseph Helsel.

Ms. Murr advised the Board she received communications that the Petitioner would like to withdraw his petition.

Mr. Recupito asked Mr. Austgen if there was anything they, as the Board, needed to do. Mr. Austgen advised the Board just to make a motion for the record, acknowledging the withdrawal of the petition.

Mr. Recupito entertained a motion for this item. A motion was made by Mr. Wilkening and seconded by Mr. Bunge to acknowledge on the record the withdrawal of the Helsel request at 5822 Tahoe Place regarding a fence. The acknowledgment passed unanimously by voice vote.

4. 2022-08 – Grimmer – Developmental Variance

Petitioner: John Grimmer

Vicinity: 13515 Lee Street, Cedar Lake, IN 46303

Mr. Recupito stated the next order of business was for a Developmental Variance to allow the Petitioner to install a 14-foot by 20-foot, 280 square foot shed for a total accessory size of 1,112 square feet, and lot coverage of 30.1% by Petitioner Mr. John Grimmer. Mr. Recupito asked Mr. Austgen if the legals are in order for this petition. Mr. Austgen responded in the affirmative.

Mr. Elliot McCullough, Tuff Shed, stated he was present to speak on behalf of the Petitioner. Mr. Recupito asked if there was any document signed to allow him to speak on behalf of Mr. Grimmer. Ms. Murr stated she had spoken with Mr. Grimmer and did not have Mr. Grimmer sign a document stating Mr. McCullough could speak on his behalf. Mr. Austgen asked Mr. McCullough his relationship to the Petitioner. Mr. McCullough stated Mr. Grimmer was his client and Mr. Grimmer gave him permission to come and speak on his behalf.

Mr. Recupito asked Mr. Austgen if there would be a problem with Mr. McCullough representing the Petitioner. Mr. Austgen responded in the negative.

Mr. Recupito asked Mr. McCullough the reason for the request. Mr. McCullough stated his client he has an area on the side of his lot where he is wanting to put a shed. His house is getting full of his possessions and garage contains various items such as motorcycles and various tools. Mr. McCullough stated he was advised to tell the Board "he is compromising by leaving tools outside". He has to move a lot of tools around and is looking to just build an extra accessory structure outside.

Mr. McCullough advised the Board that Mr. Grimmer did agree to reduce the size of the shed to a 12-foot by 20-foot shed.

Mr. Recupito asked Ms. Murr if she had any comments from the Building Department. Ms. Murr stated she wanted it noted for the record when the existing detached garage was built, it was allowed to have a 1,000 square foot for total accessory structures. This is the reason why there was not a variance for the existing garage. Mr. Grimmer has purchased another lot, so he does have three lots combined. There are pictures provided in the packet and there is 10 feet of separation between the garage and the shed. Mr. Grimmer did advise her he was going to go down to a 12-foot by 20-foot shed. It is just the lot coverage needed for the Developmental Variance for this petition.

Mr. Recupito asked Ms. Murr if part of the request was also for the accessory size. Ms. Murr stated that was correct, and due to when the garage was built back in the 1990s, it would have allowed for a shed of some size to be built as well.

Mr. McCullough advised the Board his company has a hole dug four to six inches and put Number 73 top driveway stone into the hole and compact it. Mr. Recupito asked if the shed was pre-built and just dropped off on the property. Mr. McCullough stated the only the walls come pre-fabricated on the shed and described the process they use on putting up the shed.

Mr. Recupito asked if the shed would match the garage or the house. Mr. McCullough stated they try and match up to the exterior of the house.

Mr. Jackson asked if there has been an inclusion of a proposal of what the Petitioner wants to put up. Ms. Murr responded there was a proposal included in the packet that identifies the color of the shed as being a ground coffee with the size of the structure being 12 feet by 20 feet.

Mr. Wilkening asked if there have been any other variances granted at this address. Ms. Murr responded in the negative. Mr. Bunge commented if the oversize shed puts the Petitioner over lot coverage, he has an issue with that.

Mr. McCullough advised the Board that Tuff Shed is a nation-wide company that makes good products and wants to ensure their products last. The Petitioner is looking at getting a warranty that will last for years, so if anything gets damaged it will be replaced so it does not negatively impact the neighborhood.

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

Mr. Wilkening asked Ms. Murr with the total accessory size if she is including the proposed shed and the existing garage. Ms. Murr responded in the affirmative.

Mr. Recupito asked Ms. Murr if the current Zoning Ordinance allows for a total accessory size of 600 square feet. Ms. Murr responded in the affirmative.

Mr. Kiepura asked if the current lot coverage percentage was over the allowable lot coverage by Ordinance, without the addition of the shed. Ms. Murr stated said that was correct and by reducing the size of the shed, the lot coverage percentage is reduced to 29.4% coverage. Discussion ensued regarding the reason for why the Petitioner is requesting the Developmental Variance, including discussion of the various tools and vehicular items owned by the Petitioner. Ms. Murr advised the Board the existing lot coverage is 26.2%.

Mr. Wilkening stated the hardship at this point is appearing to be self-inflicted. Mr. Bunge commented he agrees with Mr. Wilkening's statement.

Mr. Wilkening asked what the lot size is of the Petitioner. Ms. Murr stated it was 7,350 square feet, the existing house is 760 square feet, the deck is 331 square feet for a total of 1,091 square feet. Currently, accessory structures allowed on a lot of this size is 600 square feet. The Petitioner would meet the setback requirements set forth in the Zoning Ordinance for an accessory structure.

Mr. Recupito stated the question for the Board to ask is if this variance is not granted would it result in any practical difficulties of the lot.

Mr. Kiepura stated the Petitioner is over coverage now and his reason for putting up a shed is because he has accumulated too much personal property. Thus, the Petitioner either needs to organize his property or get rid of some property. However, he is not seeing the hardship with this petition, other than what has been self-inflicted.

Mr. Austgen asked if this is a similar look to the rest of the neighborhood. Mr. Recupito stated certain parts of the neighborhood do. Mr. Austgen commented would it be perpetuating the use of the environment with or without an approval.

Mr. McCullough advised the Board they would not put up a shed that would be a thin metal shed, and it would be a nice shed. Mr. Kiepura stated that was not what they were discussing. What the Board is discussing is that the Petitioner is over his lot coverage and the question they are struggling with is what is the hardship for increasing the overall coverage of the property.

Mr. Wilkening asked what was next to the Petitioner's property and inquired who the fence belong to. Mr. Recupito stated it belonged to the homestead next to the Petitioner's property.

Mr. Jackson stated he is having difficulties with the hardships for this petition. Mr. Recupito commented if this was the first and only accessory structure of the Petitioner, there would be a difference in the petition. However, it is not that simple, when there is a large garage that is located on the property.

Mr. Austgen asked if it would make a difference to the Board if they went and viewed the property by itself. Mr. Wilkening stated it would not for him. Mr. Recupito commented he knows the area well, but did not know if the other members of the Board would benefit from driving around the area.

Mr. Austgen asked for the estimated value for the project. Mr. McCullough stated the original design Mr. Grimmer had considered for the 16-foot by 20-foot shed was approximately \$13,000. With the reduction of size to the 12-foot by 20-foot shed, the value of the project is between \$10,000 and \$11,000, which covers warranty, delivery, and installation. Ms. Murr stated the amount on the included proposal in the packet is approximately \$10,800.

Mr. Recupito asked the Board if they would need any more time for this item. The Members of the Board responded in the negative.

Mr. McCullough stated the shed would be done really well, and would help the neighborhood and reduce the amount of accumulation of items in the Petitioner's yard. When the Petitioner first came to him, Mr. Grimmer advised him that he likes to maintain his yard and is tired of his property accumulating in his yard. He would like to keep a lot of his equipment and tools outside and getting destroyed by staying outside.

Mr. Wilkening suggested having the home owner come in and discuss his petition to the Board. Mr. Kiepura stated having the home owner present would not change his thoughts the petition. Mr. Jackson commented on the same due to the fact he did not think that would change what he saw in the meeting packet.

Mr. McCullough stated if they were looking at not approving the petition, would they consider at least allowing the home owner to come in and at least make some form of commentary. Mr. Jackson advised Mr. McCullough that he has the right to request a deferral.

Mr. Recupito asked Mr. McCullough if he was requesting a deferral for this item. McCullough responded in the affirmative and requested a deferral for this item to the March 2022 BZA Meeting.

Mr. Recupito entertained a motion for this item. A motion was made by Mr. Wilkening and seconded by Mr. Jackson to grant the deferral for this item to the March 2022 BZA Meeting and for the home owner to be present at the meeting. The motion passed by 3-Ayes to 2-Nays by roll-call vote:

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

Board of Zoning Appeals

February 10, 2022

Mr. Jackson asked Ms. Murr if they decide they do not want to come back next month all they need to do is contact her. Ms. Murr responded in the affirmative. Mr. Jackson advised Mr. McCullough to have himself or Mr. Grimmer contact Ms. Murr if Mr. Grimmer decides he wants to withdraw his petition.

PUBLIC COMMENT: Mr. Recupito opened the floor for public comment.

ADJOURNMENT: Mr. Recupito adjourned the meeting at 9:43 pm.

TOWN OF CEDAR LAKE BOARD OF ZONING APPEALS

Nick Recupito, Chairman

Jeff Bunge, Vice Chairman

John Kieपुरa, 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 5-14-1.5-4(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: February 10, 2022, Minutes

Board of Zoning Appeals
February 10, 2022

All Tire Services, Jeff Frazee
13324 Wicker ave
Cedar Lake, In. 46303
January 18, 2022

Town Of Cedar Lake, Henn & Sons, Mr Norman Majeski

Attn: To all Parties concerned

Re: North East Corner of 13324 (All Tire Lot) Parking

All,

In Receiving our Approval in 2021 to Construct addition and our Parking lot improvements, The Town of Cedar Lake Required a replat of our Lot known as All Tire 13324 Wicker ave.

Henn & Sons being our landlord/Property Owner informed us that the current parcels; All Tire lot And Grandprize Car lot directly north was originally platted as Three separate lots. In order for our addition to be approved a replat of entire complex had to be redrawn from 3 lots to 2 lots to get us closer to the required lot width for commercial business. In the replating of lots Mr Norman Majeski of Grand Prize Cars essentially had lost approximately 6 spaces that were previously used by his Car dealership. I have attached a diagram/photo showing the

Parking area in question which constitutes a small triangle piece on the North east corner of My lot Directly north of the Stripped entrance lane to our property.

This letter is to Inform all parties involved That I (Jeff Frazee of All Tire Services) agree and approve of The continued use of this area By Mr Norman Majeski of Grand Prize Cars for the use of Parking and displaying his vehicles, as this small corner is not needed or of any use by All Tire Services.

THE PERSON SIGNING below does hereby certify that he or she is fully authorized and empowered to execute this instrument and to bind the undersigned hereto, and does in fact so execute this instrument.

COMPANY NAME Henn & Sons Construction Inc, d/b/a/

ADDRESS: 13733 Wicker ave
Jeff R. Henn J.P. Henderson
Cedar Lake, In. 46303

State of: IN

County of: Lake

Subscribed and sworn to before me this
19th day of 2022

NOTARY PUBLIC:
SIGNED: Michael Shoemaker
My Commission Expires 6-18-2026
Notary Public
SEAL
State of Indiana
My Commission Expires 6-18-2026
Commission No. 714459

SIGNED: Jeff Frazee 1-19-22
TITLE: owner - All Tire

Notarized letter for Grand Prize Cars/Majeski Petition