



CEDAR LAKE BOARD OF ZONING APPEALS MINUTES
CEDAR LAKE TOWN HALL, 7408 CONSTITUTION AVENUE, CEDAR LAKE, INDIANA
May 12, 2022 at 6:00 pm

CALL TO ORDER:

Mr. Recupito called the Board of Zoning Appeals meeting to order at 6:01 pm, on Thursday, May 12, 2022, with its members attending on-site. The Pledge of Allegiance was recited by all.

ROLL CALL:

Members Present: Ray Jackson; Jerry Wilkening (arrived at 6:14 pm); John Kiepura; Jeff Bunge, Vice Chairman; and Nick Recupito, Chairman. A quorum was obtained. **Also Present:** David Austgen, Town Attorney; Jill Murr, Planning Director; Chris Salatas, Town Manager; and Margaret Abernathy, Administrative Assistant on behalf of Ashley Abernathy, Recording Secretary. **Absent:** Ashley Abernathy, Recording Secretary.

APPROVAL OF MINUTES:

Mr. Recupito entertained a motion for the approval of the Minutes from February 10, 2022, and the March 10, 2022, Meetings.

Motion made by Mr. Bunge and seconded by Mr. Jackson to approve the Minutes of the February 10, 2022, and the March 10, 2022, Meetings. On a single motion, February passed unanimously, and March passed 3 ayes to 1 abstention:

Mr. Jackson	Aye
Mr. Kiepura	Aye, February; Abstain, March
Mr. Bunge	Aye
Mr. Recupito	Aye

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 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

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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. Austgen advised this is a continued public hearing.

Mr. Russ Pozen, DVG Team, representing the Petitioner, requested the petition be withdrawn. The withdrawal was acknowledged.

New Business:

1. 141 Partners – Special Exception

Owner: Mike Neubauer, 8913 W. 142nd Pl, Cedar Lake, IN 46303

Petitioner: 141 Partners LLC, 8913 W. 142nd Pl, Cedar Lake, IN 46303

Vicinity: 10702 West 141st Avenue, Cedar Lake, IN 46303

Mr. Recupito advised the first order of New Business was for a Special Exception to allow the use of Personal Storage Buildings in a B-2 Community Business Zoning District located at 10702 West 141st Avenue by Petitioner 141 Partners, LLC. Mr. Austgen advised all the legals were in order.

Mr. Russ Pozen, DVG Team, representing the Petitioner, stated the proposed development is for many storage buildings, which requires a Special Use. The project has stayed consistent in its presentations. The front two buildings along 141st Avenue will be two office buildings, behind the offices will be climate-controlled storage buildings, and the rest of the property will be normal mini-storage buildings. There will be 11 total buildings. The two climate control buildings will be 16 feet tall at the eaves, while the office buildings and the rest of the storage units will be 10 feet at the eaves, and they will adhere to Ordinance requirements for fencing, detention, and the like.

Mr. Salatas advised the BZA the Petitioner has received a Favorable Recommendation from the Plan Commission and has been well received in general. There were no remonstrators for the project at the Plan Commission, and the use appears to be acceptable in this area.

Mr. Austgen commented this petition is being advertised as a Special Exception and references the Special Use Exception; however, this would be a Variance of Use. Mr. Recupito asked if the public hearing was able to proceed. Mr. Austgen responded in the affirmative and stated the items are similar in style and type, the only difference is the burden of proof. The advertisement was done correctly, and the Board may proceed.

Mr. Kiepura discussed the project has been well presented and documented at the Plan Commission and asked the Petitioner if they are adding to the existing buffer along the east side of the property along the subdivision. Mr. Pozen responded they will be adhering to Zoning Ordinance regarding setbacks and will be constructing an opaque fencing and trees.

Mr. Kiepura asked if they were going to be constructing the property in two phases. Mr. Pozen responded in the affirmative and stated that the office, two climate control storage buildings and a portion of the other storage buildings would be in the first phase with the balance of the storage buildings in the second phase.

Mr. Recupito asked if there is a Master Plan for the area of this property. Mr. Austgen responded in the negative. Mr. Bunge asked if the property was zoned as B-2. Mr. Pozen advised the property has been rezoned to B-2. Mr. Austgen discussed the received the rezoning after the parcel was annexed into Town.

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Mr. Recupito opened the floor for public comment; hearing none, Mr. Recupito closed the floor and brought the matter back to the Board.

Mr. Pozen advised they are in the process of having engineering being prepared for the property, and they do not see any potential issues with any developmental standards.

Mr. Bunge asked about the building height and if it would meet Ordinance. Mr. Pozen responded all the buildings would fall in compliance with ordinance, and the height allowable in B-2 Zoning is 30 feet. Discussion ensued regarding the property and the design of the storage facility.

Mr. Salatas advised the Petitioner intends to extend the sidewalk in front of their property and there are no other deviations from Town Standards.

Mr. Bunge asked if there was any feedback from the homeowners in Rose Garden. Mr. Pozen responded they had not received any comments from the homeowners. Mr. Bunge asked for the hours of operation for the facility. Mr. Pozen responded access would be limited to the requirements of the Town.

Mr. Wilkening arrived at 6:17 pm.

Discussion ensued regarding the hours of operation and Town requirements. The hours of operation for the business will be 7 am to 10 pm, seven days a week with limited staffing and have no outdoor storage.

Mr. Wilkening discussed the accolades the Concept Plan received from the Plan Commission and there being no outdoor storage for the facility and asked if the facility would look like the rendering provided. Mr. Pozen responded in the affirmative and noted it is how the Owner would like the facility to look. Discussion ensued regarding Site Plan and platting.

A motion was made by Mr. Kiepura and seconded by Mr. Wilkening to send a Favorable Recommendation to the Town Council for the Variance of Use to allow the use of Personal Storage Buildings in a B-2 Zoning District with the following contingencies: the hours of operation shall be 7 am to 10 pm, seven days a week; there shall be a key pad entry into the facility; no outdoor storage is allowed; the drawings presented at the BZA and Plan Commission shall be exhibited; all of which is contingent upon approval of Zone Change and Subdivision and Site Plan approval, per the Findings of Facts. 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

2. Barron – Developmental Variance

Owner/Petitioner: Kenneth Barron, 10914 W. 135th Pl, Cedar Lake, IN 46303

Vicinity: 10914 West 135th Place, Cedar Lake, IN 46303

Mr. Recupito advised the next order of business was for a Developmental Variance for the Petitioner to construct an 18-foot by 40-foot metal carport with zero feet of separation from the property's existing detached garage, for the Petitioner to have three accessory buildings on a single lot and to allow these

structures to exceed the Maximum Accessory Size of 600 square feet total, totaling 1,376 square feet on a property located at 10914 West 135th Place by Petitioner Mr. Kenneth Barron. Mr. Austgen advised this item has been properly advertised and the public hearing may be conducted.

Mr. Barron stated he is requesting to be allowed to put up a carport to store an air boat he had designed and built. He had checked with storage facilities in the area to ensure he could store the air boat under roof before having the boat built. He had been assured before going to purchase the boat, that facilities that house boats or RVs would store the air boat. When he finally brought the boat home, the facilities that he had spoken with told him they would not store the boat. Afterwards, he talked with farmers in the area and was only able to store them for a limited time and not have year-round access. Mr. Barron stated it is a 4-season boat. He has had it covered by tarps and he came in January to be on the February meeting and was pushed off until this meeting.

Mr. Barron advised the boat on the trailer measures 10 feet 8.5 inches high, 9 feet 7.5 inches on the wheel wells, and 27 feet long. The carport he would like is 18 feet wide and about 38-40 feet long depending on the manufacturer. The concrete of his driveway is approximately 18 feet wide as well. It would be attached to the front of the garage and anchored to the concrete. He did not originally intend to put up a building to store it on his property. The face of the garage is 108 feet back from the street, and this would allow him access to the garage in the back of the boat. The structure would have a black roof to match the garage and paint the braces to match the deck.

Mr. Salatas advised the lot coverage would be 40.8% if the carport if the variance is allowed.

Mr. Barron stated he would be able to back the boat right into the carport by backing into his driveway. The roofline will have a smooth transition with the garage roof, so it is not noticeable.

Mr. Recupito advised the Board typically is not a fan of carports. Mr. Kiepora stated he has an issue with the lot coverage.

Mr. Barron commented he was told not to apply for the variance but to cut the roof off and raise it in excess of 8 feet to give a finished 12-foot by 16-foot opening and was told he would have no opposition in getting it done. The roof would be 20 feet in height, and there is a power line that runs across the back of his property that would be impacted and would be required to be moved. When he was asked who told him to raise the roof, he said Jill Murr told him, but he did not know who told her that information. Discussion ensued.

Mr. Recupito opened the floor for public comment; hearing none, Mr. Recupito closed the floor and brought the matter back to the Board. He advised the Petitioner the Board generally does not approve carports.

The Board Members looked over photos provided by the Petitioner and discussed his boat. Mr. Recupito read the Findings of Fact criteria that the Members must follow when making a decision:

- (1) The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
- (2) the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
- (3) the strict application of the terms of the zoning ordinance, as amended from time to time, will result in practical difficulties in the use of the property.

Mr. Recupito advised it is the Petitioner's job to prove to the Board why you cannot follow the Zoning Ordinance, and the Board Members must take the criteria into account in determining whether to approve or deny a request. Mr. Recupito asked if all options, including waiting it out, have been exhausted to find something. Mr. Barron responded that he has been to all of the big facilities, and he has not found a place to store it. He commented he would not have ordered the boat if not for being told by storage facilities that they could store it.

Mr. Wilkening stated that the Board does not design things, and what he was told about raising the garage roof was unfortunate. Mr. Wilkening noted that there will be some indoor storage in town soon that he may be able to utilize.

Mr. Barron tried to implore the Board in his favor stating the boat is completely open and needs to be able to be covered and inquired about a dome structure anchored only by sandbags. Mr. Austgen advised that would not be permitted.

Mr. Recupito advised that if a denial is given, a Petitioner must wait one year to come back for a variance request unless there are significant changes to his plans. Mr. Barron stated that he has no clue as to what he can modify and asked if there would be a decision made. Mr. Recupito stated a decision is about to be made and asked if he wanted to defer his variance and come back with changes. Mr. Banner responded that he would prefer a decision be made as he is unaware of any changes he could make.

Mr. Recupito entertained a motion.

A motion was made by Mr. Wilkening and seconded by Mr. Kiepura to deny the Developmental Variance for an 18-foot by 40-foot metal carport with zero feet of separation from the property's existing detached garage for excessive building size and lot coverage of 40.8 percent, including the findings of fact. Motion carried unanimously by roll-call vote:

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

3. Krinakis – Developmental Variance

Owner/Petitioner: Gus Krinakis, 510 East Monitor Street, Crown Point, IN 46307

Vicinity: 7215 West 129th Avenue, Cedar Lake, IN 46303

Mr. Recupito advised the next order of business was for a Developmental Variance for the Petitioner to run electric to an existing garage on a lot without a residential structure on a property located at 7215 West 129th Avenue by Petitioner Mr. Gus Krinakis. Mr. Austgen advised legals are in order and this Public Hearing may be conducted.

Mr. Gus Krinakis stated he would like to have electric run to the garage, which is the only structure on the property. He plans to build a house and wants to have electric for lights for safety purposes. The intention is to have the house built before Christmas of this year. It appears to have had power before.

Mr. Salatas had nothing to add. Mr. Bunge asked the timeframe to start building the primary residence. Mr. Krinakis stated that he will have to see the Board again at the next meeting regarding the lot size, so

it all depends on that Board decision. It is big enough that he is going to put a house there either way, whether he is granted a variance at the next meeting or not.

Mr. Wilkening asked what the buildable space is on the six lots with what the garage is consuming. Mr. Krinakis confirmed it is six lots, but he intends to split into two (2) 75-foot by 100-foot lots. Mr. Kiepura advised the minimum lot size is 10,000 square feet. Mr. Krinakis stated if everything goes the way he wants it to, he would like to build a bilevel house on the three parcels and another house on the other three parcels.

Mr. Krinakis commented all the lots in the area are no bigger than 75 feet by 100 feet. There is a lot of property in Cedar Lake that is under the minimum lot size that the Town is allowing to be sold. Mr. Recupito advised that the Town cannot stop people from purchasing real estate and the Zoning Ordinance with the building requirements is available on the Town's website. Mr. Krinakis stated that when he first spoke with Jill Murr, she said he was good to build on 75-foot by 100-foot lots as long as he met the required setbacks. He does not know if he was grandfathered in.

Mr. Wilkening informed Mr. Krinakis he is creating his own hardship because he is trying to have the lots separate and requesting a variance for lot size and/or lot coverage. Mr. Austgen advised petitioners cannot create their own hardships. Mr. Krinakis asked what hardship he is creating for himself. Mr. Wilkening explained that by splitting the parcels into two lots from one, he is creating lots that are smaller than allowed and may be creating a lot-coverage issue.

Mr. Krinakis stated he will deal with the lot size issue at the next meeting; however, he would like to have power run to the garage to use whether he can only build one house or if he is allowed to build two houses. Mr. Kiepura asked if the house will be built on the same lot as the garage. Mr. Krinakis responded in the negative. He clarified he will leave the garage up and build the house on the west three parcels if he is not allowed a variance for the two separate 75-foot by 100-foot lots, and he will build on the west three lots first and eventually tear the garage down when he builds a house on the east three parcels.

Mr. Recupito asked if the electric is needed to build the house. Mr. Krinakis responded he could use a generator, but he would like to have power run to the garage.

Mr. Bunge asked how many parcels are under the tax key number on the Developmental Variance Application. Mr. Krinakis said when he bought it, there were six parcels. He had it changed at Lake County to the two 75-foot by 100-foot lots, and they each have their own key number now. Ms. Abernathy verified that Lake County GIS shows two key numbers that are different from what is listed on the application.

Mr. Recupito opened the floor for public comment; hearing none, Mr. Recupito closed the floor and brought the matter back to the Board.

Mr. Recupito stated he is not against this request, and they have granted this type of request in the past; however, there are contingencies that a permit gets pulled for the house quickly, so the structure is not sitting there with power without a permanent structure in perpetuity. Mr. Kiepura stated he would like to see it where he cannot have electricity to that garage until he pulls a permit to build a house.

Mr. Wilkening stated if we give him contingencies, we almost have to give him the variance for that lot with the garage when he comes in. Mr. Recupito noted it depends on the contingencies. Mr. Kiepura responded unless the Board gives him a contingency that he is granted the variance for the two lots. He

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should have been here to request the variance for the two lots first and then come in for the electric for the garage.

Mr. Krinakis commented he would have been in here for that first, but Ms. Murr had given her word that he was fine to proceed with the 75-foot by 100-foot lot size. Mr. Kiepura asked if this is a Legacy Lot. Mr. Krinakis responded he remember Mr. Murr saying that. Mr. Wilkening noted there should be a contingency on the timeline for the garage lot if a variance is granted.

Mr. Kiepura recommended Mr. Krinakis ask for a deferral until he gets the two lots squared away and come back for the electricity. Mr. Recupito asked if he would need to come back for any variances needed for setbacks, lot coverage, and height on the lots that do not meet the Zoning Ordinance but not the lot size. Mr. Austgen responded in the affirmative. Mr. Recupito asked that he comes back with the requests he needs at the same time.

Mr. Krinakis stated he is pushing here as he is leaving for Europe on July 18, 2022. The next meeting is close to that. Mr. Recupito advised if approval is given tonight, it will be contingent on a permit being pulled for the house.

Mr. Salatas advised if it were just going to be the six parcels and he were to combine the two 3-parcel lots, he could pull a building permit and satisfy that condition if he were to only build one house on those six lots. The other issue is the deadline for the June BZA meeting was last Friday, so he would be trying for the July BZA meeting for the new requests. The deferred item could be on the June agenda, but the new requests would have to be on the July BZA meeting.

Mr. Recupito advised the Legacy Lots only applies to lots with a house already on it in the Zoning Ordinance. He further advised the lots can be built on as long as it meets the criteria in the Zoning Ordinance. Mr. Krinakis rebutted the Zoning Ordinance requires 10,000 square feet. Mr. Recupito responded that is for new lots that are platted. Mr. Krinakis asked if he is good to go then aside from the electrical. Mr. Recupito stated that he has not looked at what Mr. Krinakis has proposed to know if it meets all the requirements in the Zoning Ordinance. Mr. Krinakis said it does according to what Ms. Murr had told him.

Mr. Wilkening advised they are trying to avoid having a powered garage on a vacant lot for a number of years. Mr. Austgen advised deferring this to the next agenda so Mr. Krinakis still has a venue with he BZA, and any snags along the way can be addressed here. Mr. Wilkening instructed that when Mr. Krinakis comes back that he as what needs to be on those lots with him.

Mr. Krinakis asked if they needed blueprints. Mr. Kiepura responded they do not need the house plans, but they need to know where the house will be on the survey. Mr. Krinakis said he has that from the surveyor for the lot without the garage, but he can have the surveyor put it on the lot with the garage as well. Mr. Krinakis said to forget about the electric to the garage. He will just store things in it and run his generator.

Mr. Recupito entertained a motion for a deferral.

A motion was made by Mr. Kiepura and seconded by Mr. Bunge to defer this matter to the June 2022 Board of Zoning appeals meeting. Motion carried unanimously by roll-call vote:

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Mr. Jackson Aye

Mr. Wilkening Aye

Mr. Kiepura Aye

Mr. Bunge Aye

Mr. Recupito Aye

4. Wicker Enterprises, LLC – Developmental Variance

**Owner: Chicago Trust Company Trs Tr#6388 (OTD 10/30/2015), 1318 Ballybunion CT
Dyer, IN 46311**

Petitioner: Wicker Enterprise LLC, PO Box 111, Cedar Lake, IN 46303

Vicinity: 13495 Wicker Ave., Cedar Lake, IN 46303

Mr. Recupito advised the next order of business was for a Developmental Variance for the Petitioner to have a reduction in the required front yard setback along US 41 from 60 feet to 25 feet and along 135th Place from 30 feet to 10 feet, as well as a reduction in the required rear yard setback along the property's eastern border from 30 feet to 20 feet on a property located at 13495 Wicker Avenue by Petitioner Wicker Enterprise LLC. Mr. Austgen advised legals are in order and this Public Hearing may be conducted.

Jennifer Irons-Jostis, present with Jamey Glynn, stated their intent is to build a new law office for their existing business that has been in Cedar Lake. They were in front of the Plan Commission with their concept plan and are working with DVG on the preliminary design phase currently and working to finalize the architectural and engineering plan. They do not anticipate any further BZA request; however, they need to get the parking squared away up front. The lot has been vacant for many years because of the size limitations. The hardship of parking in the US 41 setback has been prohibitive for many considering that lot, and they are dealing with it as well. They feel their proposed use would be a good fit. They will be a low-traffic business making them a good fit for the adjacent neighborhood.

Ms. Irons-Jostis noted the building design has a residential character, so there should not be an adverse impact on the neighborhood. Their development in the corridor is consistent with the Town's Master Plan for the area. The parking variances they are requesting are needed due to the setbacks and the size of the rights-of-way they have on the sides between the parking lot and the roadways.

Mr. Salatas noted the lot coverage is fine.

Mr. Kiepura noted the entrance is off of 135th and not US 41, so that will ease up traffic a bit, and they would not have numerous clients there at one time, so traffic issues would not be a problem. Mr. Recupito asked if they are in the process of getting Site Plan approval. Ms. Irons-Jostis responded in the affirmative and noted their purchase of that lot is contingent upon obtaining the necessary approvals from the Town.

Mr. Wilkening commented that the general consensus of the Plan Commission is that this is a good fit for that property; however, there are some details for occupancy and parking. Mr. Recupito asked if the parking spaces they are proposing exceed the minimum required. Ms. Irons-Jostis responded in the affirmative and commented they only have one way to put a building on the lot and not many ways to make the parking fit. The proposed square footage of the building is going to be 2102 square feet, which requires 10.1 parking spaces plus one space for every two employees, and they currently have four employees but may employ up to six once they move adding another two to three parking spots, so the

parking is going to be a total of 13 to 14 spots. Their current design has 25 parking spaces, including two handicap spaces.

Mr. Recupito asked if they are expanding the current business model to take on more lawyers. Ms. Irons-Jostis stated they would like to bring another attorney into the office.

Mr. Wilkening asked if the building is going to have a basement and/or a second story. Ms. Irons-Jostis responded it will have a basement but not a second story, there will be no upstairs occupancy. They have extra parking over what is required because they can always deduct from the parking if necessary.

Mr. Recupito asked if there are any issues with the setback off of Wicker Avenue if it were to be expanded in the future. Ms. Irons-Jostis noted there is a turn lane there already, and they contemplated that when looking at the lot. Mr. Kiepora asked if there will be parking along US 41. Ms. Irons-Jostis responded in the affirmative and referenced the drawing provided.

Mr. Wilkening asked if they will be continuing the sidewalk on US 41. The Petitioners stated they will do whatever is required per the Zoning Ordinance. Mr. Wilkening asked why there were two entrances to the parking lot. The Petitioners responded one lot is for employees only.

Mr. Recupito opened the floor for public comment.

Daniel Roper, 11027 West 131st Place, expressed concern about traffic. During softball and baseball season, their neighborhood is flooded with cars that park all over. He further expressed concern regarding drainage and noted they already have issues due to the slope of the property when there are heavy rains. He asked what hours the business will have and is concerned about security lights shining into his house at night. He is not in favor of two entrances into the business due to congestion in that area.

Dennis Wyman, 11024 West 135th Place, expressed concern over flooding. Schneider drains through his yard. When it rains heavily, the water in the ravine can be up to 4 feet deep. If they close the ravine, it will flood his basement. He does not want them to put a sidewalk in as he would like to take his out as he is the only one who was made to put a sidewalk in front of his house.

Mr. Recupito assured both remonstrators that the Town Engineer would be reviewing drainage when he reviews their Site Plan. Mr. Wilkening noted that sooner or later, the sidewalk will go someplace.

Having no one else coming forward to speak, Mr. Recupito closed the floor and brought the matter back to the Board.

Mr. Salatas expressed concern over the west entrance as US 41 will likely be expanded in the future in that area, and the west entrance would be very close to that area, potentially. Mr. Carnahan noted that INDOT said they were going to 133rd Avenue but may potentially go to 135th Avenue.

Ms. Glynn stated that they have already reached out to Don Oliphant, Town Engineer, regarding the drainage and have already received instructions on what they need to do from him. Ms. Irons-Jostis noted that they do not have to have two entrances, but the second was designed to be just for employees and there should not ever be a lot of traffic in their parking lot. Mr. Wilkening asked the Petitioners to work with DVG and consider eliminating one of those parking lot entrances. They agreed to work on it.

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When asked what the office hours would be, Ms. Irons-Jostis noted that office hours for clients coming in are generally between 9 a.m. and 5 p.m. Ms. Glynn added they will be open Monday through Friday only as they do not want to compete with the craziness of baseball and would prefer their parking lot not be used for parking for baseball games.

Mr. Recupito entertained a motion and advised that any motion should be made contingent upon Site Plan approval.

Mr. Bunge commented that this property has been zoned B-2 for as long as he can remember, and he thinks this is a good fit for the property.

A motion was made by Mr. Wilkening and seconded by Mr. Jackson to approve the Developmental Variance to allow a reduction in the required front-yard setback along US 41 from 60 feet to 25 feet and along 135th Place from 30 feet to 10 feet, as well as a reduction in the required rear yard setback along the property's eastern border from 30 feet to 20 feet, contingent upon Site Plan approval, including the Findings of Fact. Motion carried unanimously by roll-call vote:

Mr. Jackson Aye

Mr. Wilkening Aye

Mr. Kiepura Aye

Mr. Bunge Aye

Mr. Recupito Aye

Mr. Wilkening asked about screening. The Petitioners responded it would be addressed according to Zoning Ordinance requirements.

5. Kadisak – Developmental Variance

Owner/Petitioner: Russell Kadisak Jr., 13325 Rocklin Street, Cedar Lake, IN 46303

Vicinity: 13325 Rocklin Street, Cedar Lake, IN 46303

Mr. Recupito advised the next order of business was for a Developmental Variance for the Petitioner to construct a 32-foot by 32-foot pole barn, with a wall height of 12 feet and an overall height of 18 feet 4 1/8 inches, allow the Petitioner to have three accessory buildings on a single lot, and to allow these structures to exceed the Maximum Accessory Size of 1,600 square feet total, totaling 1,908 square feet on a property located at 13325 Rocklin Street by Petitioner Mr. Russell Kadisak Jr. Mr. Austgen advised the legals are in order and the Public Hearing may be conducted.

Mr. Russell Kadisak explained the variance request is to have a pole barn on his property.

Mr. Salatas stated there is more than enough room and the lot coverage would only be 12.8 percent with the addition of a pole barn if the variance is granted.

Mr. Recupito asked if this will go all the way to the southern part of the lot. Mr. Kadisak responded in the affirmative. The pole barn will have a separate dedicated drive from the road to the pole barn. The third building is a shed that will be taken down after the pole barn is constructed and his personal belongings are able to be moved from the shed to the pole barn. Once the shed is taken down, he will be approximately 140 square feet over the allowable amount. He intends to use the pole barn for personal use and storage. He owns multiple cars, and they do not have a basement or attic space for storage. Additionally, he enjoys woodworking as a hobby and does not have any space to do that. He does not

intend to work on anyone else's vehicles but their own. The overhead doors will be 8 feet. As soon as he obtains a permit, he will contact the company and have them start construction.

Mr. Recupito asked if the Zoning Ordinance still allows for pole barns on lots if they are of a certain size. Mr. Austgen responded in the affirmative. Mr. Kadisak noted the minimum is 1.01 acres for a pole barn, and his property is 1.03 acres.

Mr. Wilkening advised that as a rule, the Board does not grant side-wall heights over 10 feet. Mr. Kadisak stated that he is asking for a variance so that he can have a lift in his pole barn so he would be able to work on the underside of his vehicles more easily. Working on the ground and getting up and down is difficult to work on old cars. He will have two doors, both 8 feet tall with one being 9 feet wide and the other 16 feet wide.

Mrs. Kadisak asked for the floor. Upon permission being granted, she informed the Board the reason he wants a lift in the garage is because he is a disabled veteran and being still for a long time and getting on the ground hurts him. Being able to stand up would alleviate a lot of his pain and help him do what he loves to do.

Mr. Bunge asked what the driveway would be. Mr. Kadisak responded it would be black top. The colors they picked for the exterior are white with a black roof, and they are going to reside the house in a farm style where the panels are vertical and having steel roofing on the wrap-around porch and some accent areas with the steel roof as well. They want stonework on the sides of the house and will add that also to the bottom of the pole barn.

Mr. Wilkening asked if there is another accessory building on the property. Mr. Kadisak responded they have a detached garage and the shed that he will be removing after the pole barn is constructed.

Mr. Bunge asked if the request for the pole barn is needed with the size of this property. Mr. Austgen responded in the negative.

Mr. Wilkening asked if the sidewalls could be reduced to 10 feet. Mr. Kadisak responded with the width of the garage being 32 feet, the trusses are at the 4:12, and in this area, you should not go lower than that with the snow. He explained that he wants the lift off to one side so he has room to store cars and the depth would be for his woodworking tools.

Mr. Recupito opened the floor for public comment; hearing none, Mr. Recupito closed the floor and brought the matter back to the Board.

Mr. Jackson asked if he is almost at the end of the road by the liquor store. Mr. Kadisak responded he is the last house on the street and there are a number of trees between his yard and the neighbor's. Mr. Recupito asked if the electricity is being served by the house. Mr. Kadisak stated he is going to talk to the electric company to see if he should bring it from the house or if he needs to have another box run.

Discussion ensued regarding the size of the door openings.

Mr. Recupito entertained a motion.

A motion was made by Mr. Kiepura and seconded by Mr. Wilkening to approve the Developmental Variance to allow the Petitioner to construct a 32-foot by 32-foot pole barn, per Ordinance, with a wall height of 12 feet and an overall height of 18 feet 4 1/8 inches, the variance will allow the Petitioner to have three accessory buildings on a single lot, and to allow these structures to exceed the Maximum Accessory Size of 1,600 square feet total, totaling 1,908 square feet, contingent upon the removal of the old shed after the structure is built and the owner may only work on his own personal vehicles and no other cars, including the Findings of Fact. Motion carried unanimously by roll-call vote:

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

6. Boulas – Developmental Variance

Owner/Petitioner: Pete Boulas, 2929 Painted Leaf Drive, Crown Point, IN 46307

Vicinity: 13008 Knight Street, Cedar Lake, IN 46303

Mr. Recupito advised the next order of business was for a Developmental Variance for the Petitioner to construct a two-story home with a ground floor area of 741 square feet, with a front yard setback of 29 feet 6 7/8 inches on lot with a width of 50 feet and an area of approximately 6,098.4 square feet on a property located at 13008 Knight Street by Petitioner Mr. Pete Boulas. Mr. Austgen advised legals are in order and this Public Hearing may be conducted.

Mr. Pete Boulas stated that his son-in-law is with him and asked if he could speak as well. Mr. Pere Angelos, 399 Longcommon Road, Riverside, Illinois, stated that Mr. Boulas wants to build a two-story home with three bedrooms, three bathrooms and a two-car garage. When he purchased the property, he purchased it with the width of the property being 50 feet, and there was nothing he could do to widen the lot. After purchasing the property, he met with staff a few times to go over how he could fit a house on the lot with a width of 50 feet. He just cannot meet the minimum first-floor square footage of 2,200 square feet. The garage will be about 515 square feet. They are requesting variances for the lot width and the minimum first floor square footage. They are trying to keep the home from exceeding the 25 percent lot coverage as well.

Mr. Wilkening asked about the first-floor square footage. Mr. Salatas explained that the new Zoning Ordinance needs some cleaning up and the total above-grade square footage minimum is 2,200 square feet excluding the garage and basement. Mr. Angelos stated that the home is 1,824 square feet not including the garage or basement.

Mr. Angelos commented that the house plan was originally a bit larger, but to keep the minimum setback of 8 feet on each side and not go over the lot coverage, they made it slightly smaller.

Mr. Recupito noted there are several lots on the drawing and asked which lots the home will be constructed upon. Mr. Boulas stated there are three lots.

Mr. Recupito asked if the pin numbers for this property match GIS. Ms. Abernathy responded the PIN number being referenced is PIN No. 45-15-23-330-029.000-043 and showed the property on the GIS Map

on the media screen. Mr. Wilkening requested confirmation that there are two lots. Ms. Abernathy responded in the affirmative and stated that there are two assessor parcel numbers that share the same property address.

Mr. Recupito asked why they are here if they own enough property to build a home. Mr. Boulas stated that he purchased the two parcels on the one lot first, and they drafted their plans to build this house. The guy they purchased the property from offered to sell them the other two parcels later due to financial issues he was having. He has three children. He wants to build a house for him now and another in the future for one of his children to move into next door in the future. Mr. Angelos commented that his father-in-law purchased the two properties almost a year apart.

Mr. Wilkening commented that this appears to be another one of those instances of someone creating their own hardship. Mr. Recupito asked if the hardship is finances because they already had plans drafted up and do not want to change the plans now that they own this property. Mr. Angelos said part of it is that there has already been a lot of money that has been invested strictly for the plans. Secondly, when he decided to invest in the other lot, it was strictly so he could eventually have one of his children living there. It was not to make a bigger house or more value into one. He would not have purchased the other lot.

Mr. Recupito noted that he has been trying to advocate against some of the extreme density that we have had going on in the town and putting two houses on 100 feet of frontage does not seem like a wise idea. Mr. Wilkening added that the plans would change if the lots were combined together as they were once.

Mr. Angelos said Mr. Boulas would lose significant value, and if he never purchased the property next to him, which he did as a separate transaction to build a second house, the conversation would be solely on the variance for the 50-foot-wide lot. Discussion ensued wherein Mr. Recupito stated that it is their job to do their due diligence and that the Zoning Ordinance is on the website for all to see.

Mr. Wilkening asked for Mr. Austgen to weigh in on whether Mr. Boulas created his own hardship. Mr. Austgen responded it could be construed that way, and if the BZA did as a judicial body, you would find against him on that count, yes; he would not meet the burden of proof under the code.

Mr. Angelos explained that the other house would likely be for his son who is only 14 years old, so it would be at least 5 years down the road. Mr. Wilkening stated that he does not believe there is a statute of limitations on hardships that individuals create for themselves.

Mr. Bunge commented that the lot is quite skinny and was designed to hold a 50-year-old cottage, and he cannot support this. He noted there appears to be a walking path behind the property when the subdivision was recorded. Mr. Bunge explained the history of the subdivision was to allow two or three-room cottages for folks to enjoy on the weekends by the lake, and many of these subdivisions had walking paths for access to the lake.

Mr. Angelos commented that he feels the granting of this variance would add value to the Town. The area has some newer homes on fairly narrow lots. This will be a nice house that will spruce up the area. Mr. Wilkening stated that house is nice, and the plans are nice, but jamming it on that lot is not a good idea. Mr. Recupito added building a house to our current standards would also help improve the value of the area; putting two houses on 100 feet of frontage would not serve the Town better than putting one house on that frontage.

Mr. Recupito opened the floor for public comment; hearing none, Mr. Recupito closed the floor and brought the matter back to the Board.

Mr. Recupito advised the Petitioners the burden of proof is on them. In his view, the Petitioner wants two houses but owns enough property to put one house that would meet the Zoning Ordinance requirements. As a Member of the BZA, he has to ask himself why he should allow this when the Zoning Ordinance can be met. There will not be any practical use difficulties with this property.

Mr. Angelos attempted to implore the BZA to allow the two houses on the two lots as they would be “taking a bath” on the potential of a second house ten years down the road. He stated it is a financial hardship to purchase two lots for double the price and only be able to build one house on it. Mr. Recupito responded that financial hardship is not a consideration for the Board.

Mr. Wilkening commented that if they sell that lot a year from now the future owners would be standing here asking for the same thing. Mr. Angelos stated one of the adjacent property owners may want to go by the one lot and make their home larger. Discussion ensued.

Mr. Angelos asked if there would be a benefit to withdrawing and allow themselves to produce another plan. Mr. Recupito explained they could not come back to within a one-year period, unless the plans drastically change, if they receive a denial at this meeting.

After hearing a request for a deferral from the Petitioners, Mr. Recupito entertained a motion for the same.

A Motion was made by Mr. Wilkening and seconded by Mr. Bunge to defer this petition to the June 2022 Meeting, referencing the Findings of Fact. Motion carried unanimously by roll-call vote:

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

7. El Jimador – Champ 84 Enterprises LLC – Variance of Use
Owner: Champ 84 Enterprises LLC, 1877 Center Street, Portage, IN 46368
Petitioner: El Jimador LLC, 9071 East 109th Avenue, Crown Point, IN 46307
Vicinity: 111 Broadway, Cedar Lake, IN 46303

Mr. Recupito advised the next order of business was for a Variance of Use for the Petitioner to have outdoor dining and the serving of alcoholic beverages at a restaurant in a B-1 Neighborhood Business Zoning District on a property located at 111 Broadway by Petitioner El Jimador LLC. Mr. Austgen advised legal requirements are in order and this Public Hearing may be conducted.

Mark Anderson, Anderson & Anderson, P.C. Law Firm, on behalf of the Petitioner/Owner to request two Variances of Use, as indicated. The property was previously used where the same variances were requested and had the Indiana Type 210 liquor license. The property was sold after the restaurant ceased to operate there and the liquor license is being transferred to the new Owner. There are two other

restaurants in the area under the El Jimador name in Hobart and Winfield and a third restaurant also in Winfield; thus, they have an established track record as a Mexican restaurant location.

Mr. Salatas noted that everything stated by Mr. Anderson is accurate. There were variances given to the last business that was there.

Mr. Wilkening commented that he does not remember ever approving outdoor dining for any of those establishments that were in that location. Mr. Kiepura stated that when it was approved for Southside Pizza, they could take their own food out there to sit down and eat, but there would be no service out there. The safety factor is still in question as it needs bollards, but he is okay with the rest of it. Mr. Kiepura does not recall an approval from this Board. Mr. Austgen advised that it did have an approval from a body in this Town.

Mr. John Mathison, 350 North 725 West, Hobart, noted that the parking lot will be resurfaced. Mr. Anderson stated the Owner will likely not have an issue with safety and bollards if that would be needed to protect outdoor diners.

Mr. Wilkening is requesting that bollards spaced no greater than 4-feet apart be used. Discussion ensued as to the location of the current fence that is there. Mr. Recupito stated that he is in favor of the variances as long as public safety is kept in mind.

Mr. Recupito opened the floor for public comment; hearing none, Mr. Recupito closed the floor and brought the matter back to the Board.

Mr. Bunge asked if they will be serving alcohol outside as well. Mr. Austgen advised he does not believe there is anything in the code about it. Mr. Bunge asked about the slanted lines and the straight lines for parking spaces on the overhead drawing. Mr. Mathison responded that they were looking to see the difference in the number of parking spaces between the two styles; currently, there are the spaces are straight.

Mr. Recupito asked how many tables and seats they are proposing. Mr. Mathison responded he thinks there are four or five tables there now. Mr. Recupito asked that they provide a firm number. Mr. Mathison stated it would be five tables with four chairs at each.

Mr. Wilkening asked if the parking requirement is supposed to accommodate the amount of seating for both indoor and outdoor dining. Mr. Austgen responded in the affirmative. Mr. Kiepura asked the occupancy for the building. Mr. Mathison replied he believes it is approximately 67 people, and there are currently 30 standard parking spaces plus two handicap spaces for a total of 32. Mr. Kiepura asked how many tables are inside. Mr. Mathison said he did not have that information. Discussion ensued regarding the parking availability. Mr. Austgen advised the parking along the frontage of the buildings is all public parking that was purchased by the Town. Mr. Salatas advised without knowing the maximum occupancy of the building itself, it is hard to say.

Mr. Austgen advised that the parking has been used by two previous restaurants with the same layout and it worked for both of them. He further advised the Board to keep that history in mind. Mr. Wilkening stated that he will be busier than the previous two businesses and he believes a wellness check may be needed for the parking. Mr. Austgen advised there is overflow parking into Strack's parcel and the parking

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along Broadway, which has several dozen parking spaces. Discussion regarding parking and occupancy continued.

Mr. Recupito asked that any motion made be contingent upon occupancy being based upon parking and the inclusion of bollard posts.

A motion was made by Mr. Kiepura and seconded by Mr. Bunge to send a Favorable Recommendation to the Town Council to allow a Variance of Use for the Petitioner to have outdoor dining and the serving of alcoholic beverages at a restaurant in a B-1 Neighborhood Business Zoning District, contingent upon correction of the outside dining to have the proper safety bollards and parking to be based upon Town Codes with a maximum of 20 outdoor dining seats with a maximum of five tables, per the Findings of Fact. Motion carried unanimously by roll-call vote:

Mr. Jackson Aye

Mr. Wilkening Aye

Mr. Kiepura Aye

Mr. Bunge Aye

Mr. Recupito Aye

8. Creative Dermal Restoration LLC – Variance of Use

**Owner/Petitioner: Creative Dermal Restoration LLC, 332 East 125th Place,
Crown Point, IN 46307**

Vicinity: 109 Broadway, Cedar Lake, IN 46303

Mr. Recupito advised the next order of business was for a Variance of Use for the Petitioner to operate a medical tattoo / tattoo removal studio in a B-1 Neighborhood Business Zoning District on a property located at 109 Broadway by Petitioner Creative Dermal Restoration. Mr. Austgen advised legals are in order and this Public Hearing may be conducted.

Mr. Don Frey explained he purchased the building from Dr. McDermott a while back and he would like to make it into a satellite shop focusing on specialty use. He has been doing a lot of work over the past few years working with local surgeons and oncologists in the area to do a lot of scar and reconstruction tattooing on cancer patients, specifically breast cancer patients who have had mastectomies. Once they get rid of the cancer and do a reconstruction, the last thing they do is send them to him for scar cover and nipple replacement. He would like to use this building as a private, appointment only space to do that type of work as it is smaller and more intimate. He also would be doing laser tattoo removal at this location.

Mr. Salatas noted that he has a letter to be read into the record when it is time for public comment.

Mr. Frey commented that he would only have one client at a time if it is just him working in there. There are three exam rooms, and he would like to set two of them up for medical tattooing and one for the laser tattoo removal. He may have as many as two clients at a time. The building is only 750 square feet. It has been vacant for a couple of years, and it is perfect for what he is doing.

Mr. Kiepura asked if the only parking there is street parking. Mr. Frey responded in the affirmative. Mr. Wilkening asked how much employee parking is there in back of the building. Mr. Frey responded

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that there was stone put behind the building and that there was parking for four cars. When the alley was redone, they buried all the stone and planted grass.

Mr. Wilkening asked what the maximum number of people that would be in the building at a time would be. Mr. Frey responded it would be four. Mr. Wilkening stated he believes this is a great use for the building with low traffic. Mr. Kiepura concurred. Mr. Frey noted there is a cut in for a drive over the sidewalk to his lot where he could put some parking that could exit out at the alley. Discussion ensued.

Mr. Recupito asked what the hours of operation would be. Mr. Frey stated that he has not determined that as yet. His Hammond location is 10 a.m. to 6 p.m., and his Hobart location is noon to 8 p.m. This location is going to be primarily for the medical tattooing, but if he has clients who live in Cedar Lake wanted to have a private local appointment, he may accommodate them, but he does not want any walk-in clients. He will have a small sign that says the name of the studio. He might put a small sign next to the door that is something simple.

Mr. Recupito opened the floor for public comment; no one was present to speak in person, but the following written remonstrance by Henry Peters was read into the record by Mr. Salatas:

"A TATTOO SHOP IS NOT THE IMAGE YOU WANT TO PROJECT OF THE TOWN. SOME PEOPLE MIGHT NOT BE COMFORTABLE WITH THAT AS IS RELATED TO ROUGH NECK BIKERS. THAT BEING SAID IT WILL EFFECT OTHER SHOPS IN THE AREA. I WAS A BIKER GUY MYSELF SO I KNOW OF WHAT I SPEAK. BIKERS RUN IN PACKS. TATTOO'S ARE NOTORIOUS FOR A ROUGH LIFESTYLE AND GANG RELATED ACTIVITY. THERE ARE GREAT GUYS THAT RIDE THE BIKES, BUT ON THE OTHER HAND--NOT SO GREAT GUYS. THERE ARE PLACES FOR THOSE SHOPS BUT I DON'T BELIEVE THAT AREA IS A GOOD FIT. COPS RIDE BIKES BUT THE NARE-DO-WELLS RIDE THEM TOO. WHAT HAPPENS IF THE WRONG ELEMENT MAKES THAT PLACE A NUISANCE AND CAUSES ISSUES WITH THE NEARBY MERCHANTS. AGAIN, I DON'T BELIEVE A TATTOO SHOP IS A GOOD FIT FOR THE AREA. LETS KEEP CEDAR LAKE MOVING FORWARD.THERE ARE PLACES FOR A TATTOO SHOP I CEDAR LAKE, BUT NOT THERE. THEREFOR MY VOTE IS A BIG NO-NO."

Mr. Frey stated that he has been dealing with that for years. Mr. Frey stated that this shop is by private appointment only. There will not a tattoo sign on the outside of the building, and he does not want to advertise it as that either. Mr. Frey commented that the building is a cool building, and he wants it to look like the 50s style when it was built. He wants this shop to make the women he helps to be comfortable during this last process in their medical journey. His maximum hours would be 10 a.m. to 8 p.m. for appointments only Monday through Saturday.

Mr. Recupito entertained a motion that will be a recommendation to the Town Council.

A motion was made by Mr. Wilkening and seconded by Mr. Kiepura to send a favorable recommendation to the Town Council to allow a Variance of Use for the Petitioner to operate a medical tattoo / tattoo removal studio in a B-1 Neighborhood Business Zoning District, contingent upon the hours of operation to be Monday through Saturday 10 a.m. to 8 p.m. and no use of the word tattoo on the building and only a small sign in the window, per the Findings of Fact. Motion carried unanimously by roll-call vote:

Mr. Jackson Aye

Mr. Wilkening Aye

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Mr. Kiepura Aye
Mr. Bunge Aye
Mr. Recupito Aye

PUBLIC COMMENT: None was had.

ADJOURNMENT: Mr. Recupito adjourned the meeting at 9:38 p.m.

TOWN OF CEDAR LAKE BOARD OF ZONING APPEALS

Nick Recupito, Chairman

Jeff Bunge, Vice Chairman

John Kiepora, Member

Jerry Wilkening, Member

Ray Jackson, Member

ATTEST:

Ashley Abernathy, Recording Secretary

The Minutes of the Cedar Lake Board of Zoning Appeals are transcribed pursuant to IC 5-14-1.5-4(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.

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