



CEDAR LAKE BOARD OF ZONING APPEALS MINUTES
CEDAR LAKE TOWN HALL, 7408 CONSTITUTION AVENUE, CEDAR LAKE, INDIANA
August 11, 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, August 11, 2022, with its members attending on-site. The Pledge of Allegiance was recited by all.

ROLL CALL:

Members Present Via Zoom: None. **Members Present:** Ray Jackson; Jerry Wilkening; John Kiepura; Jeff Bunge, Vice Chairman; and Nick Recupito, Chairman. A quorum was obtained. **Also Present:** David Austgen, Town Attorney; Chris Salatas, Town Manager; and Ashley Abernathy, Recording Secretary. **Absent:** None.

APPROVAL OF MINUTES:

Mr. Recupito entertained a motion for the Minutes of the July 14, 2022, Meeting; a motion was made by Mr. Kiepura and seconded by Mr. Jackson to approve the same. Motion passed unanimously by roll-call vote:

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

New Business:

1. 2022-36 Bauner – 8611 West 138th Place – Variance of Use

Owner/Petitioner: Kasey Bauner, 8611 West 138th Place, Cedar Lake, IN 46303

Vicinity: 8611 West 138th Place, Cedar Lake, IN 46303

Mr. Recupito stated the first order of New Business is for a Variance of Use request for the Petitioner to operate a hair salon in an R-2 Zoning District by Petitioner Ms. Kasey Bauner for a property located in the vicinity of 8611 West 138th Place. Mr. Austgen advised the legals are in order.

Ms. Kasey Bauner stated that she would like to open a hair salon in her house.

Mr. Salatas advised the Board they will have photographs of the proposed room to be utilized for the hair salon and the property itself.

Mr. Bunge inquired how many chairs Ms. Bauner intended to have. Ms. Bauner advised she intended to have just one chair. She will operate by appointment only, and will have only one client at a time. She sent in photographs of her driveway to show that they will not be a disturbance to the neighbors.

Mr. Bunge inquired if this was a permitted use within an R-2 Zoning District. Mr. Salatas stated it is not a permitted use with the current Zoning Ordinance.

Mr. Recupito asked if the Petitioner intends to keep it quiet and have no signs. Ms. Bauner responded in the affirmative and stated she already has an established clientele, and will not have any signs. Ms. Bauner reiterated she intends to have only one client at a time and by appointment only.

Mr. Bunge asked what would be the intended hours of operation. Ms. Bauner stated currently she works four days a week, with two days of 9 a.m. to 6 p.m. and two days of 9 a.m. to 8 p.m. She is also looking at having some flexible hours.

Mr. Kiepura asked where her clients would enter from. Ms. Bauner stated clients will enter through the back door, due to the State Board requiring a separate entrance. This entrance will be next to the room intended to be utilized for the salon.

Ms. Bauner discussed how she has already been in communication with the State Board and the requirements that will be needed of her to operate her own salon from her house.

Mr. Recupito opened the floor for any public comment for or against this item; seeing none, Mr. Recupito closed the Public Hearing for this petition.

Mr. Bunge asked if there was going to be any additional traffic that could not be handled by her neighbors or streets that she is currently aware of. Ms. Bauner responded in the negative.

Ms. Bauner advised while she generally only works four days a week, she is uncertain if that means she should advise them if she works more than those four days. Mr. Recupito asked if she would be working a maximum of four days a week. Ms. Bauner responded while that is correct a majority of the time, there are some weeks where she works more than four days. Discussion ensued.

Mr. Bunge inquired if Ms. Bauner intended to sell any products. Ms. Bauner stated she did intend to and obtained a merchant retail certificate. Mr. Bunge asked how the deliveries will arrive to her property and if there would be an excess of products requiring commercial trucks for delivery. Ms. Bauner advised she did not anticipate it being more than an Amazon delivery truck and that she does not order products every week.

Further discussion ensued regarding how many days of operation with a maximum of six days of operation being requested.

Mr. Recupito entertained a motion for this item.

A motion was made by Mr. Kiepura and seconded by Mr. Bunge to send a Favorable Recommendation to the Town Council to allow the Petitioner to operate a hair salon in an R-2 Zoning District, with this use to be for the Petitioner only, and for there to be no more than 6 days of operation a week with hours from 9 a.m. to 8 p.m., and to have only one client at a time per the Findings of Fact. Motion passed unanimously by roll-call vote:

Board of Zoning Appeals

August 11, 2022

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

Ms. Bauner asked what the next step would be for her. Mr. Recupito advised this will appear at a Town Council meeting for final approval. Mr. Salatas advised it will likely be on the September 6, 2022 Town Council Meeting.

Old Business:

1. 2022-20 Yoways – Developmental Variance

Owner: Chris & Julie Yoways, 11523 Belmont Place, Cedar Lake, IN 46303

Petitioner: Van Deraa and Sons Construction, 9690 Jonathan Court, St. John, IN 46373

Vicinity: 14117 Huseman Street, Cedar Lake, IN 46303

Mr. Recupito advised the first order of Old Business was for the Developmental Variance to allow the Petitioner to construct a proposed addition and proposed garage addition onto the existing house with a front yard setback of 16.5 feet, a rear yard setback of 5 feet, and a total garage size of 1,248.5 square feet by Petitioner Van Deraa and Sons Construction for a property located at 14117 Huseman Street. Mr. Austgen advised the legals are in order. However, clarification will be needed pertaining to the Petitioner's request.

Mr. Greg Bouwer, representing the Petitioner, thanked the Board for the continued opportunity to present their petition to the Board. Thanks was also given to Town staff for working with his clients in regards to their petition and their permit with the Town.

Mr. Bouwer advised the Board they are withdrawing Developmental Variance request for the front yard setback of 16.5 feet. They are withdrawing this portion of their petition due to working with Town staff and determining that the proposed addition for the residential living area complies with the Zoning Ordinance. The Building Permit has been obtained for this portion of the project. Their remaining requests are for the proposed attached garage addition setback and overall square footage.

Mr. Bouwer discussed at length their remaining requests, why they are requesting these variances, and the support from their neighbors for these variances.

Mr. Recupito asked to clarify if the request is for an attached garage that is 1,248.5 square feet. Mr. Bouwer responded in the affirmative. They are seeking the Boards approval for the size of the garage and the setback of the garage.

Mr. Recupito asked for clarification on if the setback being requested is for a rear yard or a side yard. Mr. Wilkening commented with the layout of the road it should be the front yard and asked if that is correct. Discussion ensued.

Mr. Wilkening asked Mr. Bouwer what are the other structures located on the property. Mr. Bouwer responded there had been a carport that had been removed, and the property has a shed and a well house.

Ms. Julie Yoways agreed with Mr. Bouwer that they have removed the carport from the property. Currently, they have two accessory structures, a garage and a shed. This is congruent with other properties in the subdivision. They are requesting the garage size due to wanting to keep their property inside the garage. Mr. Wilkening asked if the additional garage size was going to allow them to store everything indoor. Ms. Yoways stated that was their intent.

Ms. Yoways commented at the last month's BZA meeting there had been discussion regarding having two front yards and two rear yards. The front yard had been determined at that previous meeting and that their front yard was based off of Huseman Street. As such, the second request for a 5-foot rear yard setback should be for a side yard setback. Mr. Recupito advised the advertisement was for a rear yard setback and this is why they were seeking clarification. Multiple conversations ensued simultaneously .

Mr. Wilkening asked for clarification on the 5-foot setback request due to a 6.7-foot setback being shown on the northwest corner of the property. Mr. Salatas clarified the setback for the existing structure is 6.7 feet from the property line. With the garage addition, the new proposed setback would be 5 feet from the northwest corner of the property. Discussion ensued.

Mr. Salatas advised it was determined the front yard setback for the addition was not needed due to language in the Zoning Ordinance, which allowed for the front yard setback to match the building lines for the front yard with existing adjacent properties. Mr. Salatas discussed the remaining Variance requests and the setback Variance would be needed regardless on if it is a rear yard or a side yard setback.

Mr. Recupito asked where the Town was regarding the stormwater for the property. Mr. Salatas advised Mr. Oliphant has reviewed the stormwater and has determined the flow of the stormwater is exactly how it should be.

Mr. Kiepora asked if they intended to continue use of the attached garage as a garage. Ms. Yoways responded in the affirmative and advised with the addition to garage they will increase the total square footage to 1,248.5.

Mr. Recupito asked what the total square footage was of current accessory structures. Ms. Yoways responded the accessory garage is 254 square feet and the shed is 205 square feet.

Mr. Wilkening inquired as to why there was not any sanitary sewer easement shown on the plat included in their packet. Mr. Austgen advised it is a Site Plan plat and, as such, does not require the placement of easements.

Mr. Wilkening asked Ms. Yoways if the addition was for an in-law suite. Ms. Yoways responded in the negative and discussed their intentions to create a single-family home.

Mr. Recupito opened the floor for any public comment for or against this item.

Mr. Doug Spencer, **8506 W 141st Lane**, stated he is their neighbor to the north and he has no problems with the location or size with the garage. He is grateful to the Yoways for discussing the project with them and keeping himself and his wife and the Yoways' neighbors to the south involved in their planning process.

Mr. Dan Pager and Ms. Sharon Pager, **14123 Huseman Street**, the neighbors to the south of the Yoways, were present for the meeting.

Mr. Recupito closed the Public Hearing for this petition.

Mr. Bouwer stated the Yoways are under the allowable accessory structure size. Per the Zoning Ordinance, they are allowed up to 1,000 square feet of accessory structure, and they are below 500 square feet total accessory structure size. With regards to the addition to the attached garage, the request is for an additional 148.5 square feet over the allowable 1,100 square feet.

Mr. Recupito asked if the Petitioner would be in agreement with a reasonable restriction of limiting any other accessory structure development. Mr. Salatas advised due to having two accessory structures currently, the Petitioner is limited from any additional structures due to the Zoning Ordinance. In order to make any changes for the accessory structures, they would need to remove one of the existing accessory structures. Discussion ensued.

Mr. Austgen stated he felt that the only thing missing from this petition was the definition of attached, and discussed how the definition of attached was evaluated throughout the evolution of the project. Discussion ensued regarding the proposed attached garage addition.

Mr. Wilkening discussed the concerns expressed by Mr. Oliphant in regards to the proposed plan and Site Plan. In addition, he is having a hard time understanding the hardship for the peculiar use of the property for the size of the garage and that "I want" is not a hardship. Ms. Yoways discussed the concerns of their neighbors and the location of the garage addition due to the L-shape layout of their lot. Discussion ensued.

Mr. Recupito stated the Board is to follow the Findings of Fact and read the Findings of Fact required to follow for a Developmental Variance. To him, the third requirement of "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" is not being met, as the Petitioner is able utilize their property.

Mr. Bouwer advised that a practical difficulty does not need to rise to the level that the owner is unable to utilize their property. The case law for Indiana allows the Board to utilize significant discretion where a multitude of factors can be evaluated to determine practical difficulties. In this case, the property is a unique lake lot with an existing structure to which the owner is wanting to construct an addition. Ms. Yoways has touched on some of the practical difficulties they face with their lot and how different plans could adversely impact their neighbors and the Town.

Mr. Recupito stated he does not see the need for the garage size and requested for a case to be made regarding how the restriction of a maximum attached garage size of 1,100 square feet would be a practical difficulty. Ms. Yoways stated one practical difficulty would be a reduction in the size would cause issues in tying into the existing roof line and the second would be the size of the garage doors and how they would line up. This addition allows for two additional garage doors versus a single large size garage door. Mr. Bouwer advised the practical difficulty would be in the lot being a lake lot and wanting to utilize the property as such. Discussion ensued.

Mr. Wilkening asked when stormwater is reviewed by Mr. Oliphant. Mr. Salatas responded it is reviewed with as-builts before occupancy. If it is the desire of the Board, a request could be made for Mr. Oliphant to review the stormwater before issuance of permit.

Mr. Kiepora asked for clarification if the concern was over the extra square footage of the garage and not over the setback request. Mr. Recupito responded that was his concern.

Mr. Kiepura asked what the square footage was of the proposed garage addition. Mr. Glenn Van Deraa responded the addition is 658 square feet. Mr. Salatas advised the proposed addition is 28 feet by 23.5 feet. Mr. Kiepura asked if the size could be reduced. Mr. Van Deraa responded the size could be reduced. However, the proposed addition fits better on the lot. Further discussion ensued regarding the proposed garage size and the potential of reducing the size.

Mr. Wilkening asked how they anticipate the water run-off from the street occurring after the construction is complete. Mr. Van Deraa advised they have worked through the storm water run-off and discussed how they intend to handle the stormwater.

Mr. Bunge asked if the roof height of the garage addition would match the existing structure. Mr. Van Deraa responded in the affirmative. Mr. Bunge asked what is allowed by Zoning Ordinance for the roof of the garage. Mr. Salatas advised the garage is allowed to meet the same pitch as the house per Zoning Ordinance.

Mr. Bouwer requested the Board utilize their discretion for practical difficulties with their request.

Mr. Austgen discussed the update to the Zoning Ordinance and the history and uniqueness of the Noble Oaks Subdivision. There are unique characteristics to this subdivision based on the railroad that used to run through that area and this lot is unique in its configuration. Having the neighborhood maintained with planned storage is beneficial and the additions will help increase the value of the neighboring properties. The uniqueness of the property will allow the Board to consider what has been presented without defaulting on the newly adopted Zoning Ordinance.

Discussion ensued regarding what could occur if the requests were denied.

Mr. Recupito entertained a motion for this item.

A motion was made by Mr. Kiepura and seconded by Mr. Bunge to grant the Developmental Variance to allow the Petitioner to construct their proposed garage addition onto the existing house with a rear yard setback of 5 feet and a total garage size of 1248.5 square feet with the Findings of Fact. Motion passed by roll-call vote by 4-Ayes to 1-Nays:

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

2. 2022-33 Nyby Development – Developmental Variance

Owner/Petitioner: Nyby Development Corp., 1370 Dune Meadows Drive, Porter, IN 46304

Vicinity: 9710 West 133rd Avenue, Cedar Lake, IN 46303

Mr. Recupito advised the first order of business is for a Developmental Variance to allow the Petitioner to have a lot size of 23,800 square feet by Petitioner Nyby Development Corporation for a property located at 9710 West 133rd Avenue. Mr. Austgen advised the legals are in order, this was a deferral item from the month prior.

Mr. Doug Homeier, McMahon and Associates, Mr. David Lee, Nyby Development, and Mr. Marty Thacker, MTI Services, were present for this petition.

Mr. Recupito commented this item is a continuation from the previous month, and asked the Petitioners if they had any new information. Mr. Lee discussed when he began the process of this project and when he submitted the original petition. Most of the engineering had been ready in January, with the exception of drainage, which required calculations to be conducted.

Mr. Lee stated he had not been aware of the Ordinance change until February, and had not been advised of the change in lot size. They intend on having similar plans to their Winfield building, discussed the material for the building, and presented pictures to the Board.

Mr. Salatas stated a timeline has been provided to the Board, which is presented to them on the Meeting iPads. This timeline covers the submissions of all applications and meeting dates for this Petitioner.

Mr. Lee stated it was during the April 6 Plan Commission Work Session that they learned they would need variances for setbacks. During that meeting, they had been under the impression they were proceeding with their petition under the previous Zoning Ordinance. They submitted for the original three Developmental Variance after the April Work Session. It had not been until June 1, 2022, that they had been advised they would need to obtain a Developmental Variance for the lot size.

Mr. Wilkening asked if they are the owners of the two proposed lots. Mr. Lee responded in the affirmative. Mr. Wilkening inquired if they owned the lot directly to the east. Mr. Lee responded in the negative.

Mr. Recupito opened the floor for any public comment for or against this item.

Ms. Elizabeth Paluzzi, Owner of Hanover Apartments, **9714 West 133rd Avenue**, stated they are in favor of allowing this variance to allow for this business to operate on the proposed property. The Petitioners have agreed to work with them and provide the visual barrier. She feels this business is a positive for their property and the traffic of the area.

Mr. Recupito closed the Public Hearing for this petition.

Mr. Recupito stated his thoughts regarding the property have not changed, especially regarding the lack of new information brought. The Zoning Ordinance requires 40,000 square feet, and they have significantly less than the allowable lot size. He does not feel this is a good plan. There are plenty of uses for this property. Mr. Austgen commented on the same.

Mr. Bunge inquired how long the property has been zoned as B-3. Mr. Wilkening responded the property has likely been zoned B-3 for at least 20 years.

Mr. Wilkening expressed he did not see any practical difficulties with a vacant lot. The lot size had been changed under advisement of former Town Manager Mr. Rick Eberly. He is not certain he will deviate from the current lot size requirements.

Mr. Recupito commented that he felt it was unfortunate what has transpired prior to the Petitioner coming to the BZA. However, he has not changed his stance from last month, and there is not anything that could be presented to change his stance. Mr. Lee asked if this was the case, even though they had submitted prior to the Ordinance change and stated they had not rushed to get this application in. He had not known about the Variances, and that is why they are present today. He is willing to provide his number

so if they had any issues with the project, they could contact him to rectify the situation. The Winfield, Chesterton, and Crown Point Town and City Planners have agreed to be references for the BZA, if needed.

Mr. Lee stated they are wanting to work with the Town and provide a nice building. He is only present because his BZA application was not submitted with his Plan Commission application.

Mr. Kiepura commented he did not think the issue with the building the Petitioner planned on constructing. The problem is coming in with the size of the lot. He has had lengthy discussions regarding the lot size, and his position has not changed. He feels there had been miscommunication, and the original application had been submitted on February 24, 2022. To him, this falls under the previous Zoning Ordinance. To him there are certain circumstances that require consideration of timeline.

Mr. Salatas clarified the three Developmental Variance which were applied for in April, would have been required under the previous Zoning Ordinance. Those Developmental Variance should have been submitted in February, with the original petition. Discussion ensued.

Mr. Kiepura discussed his thoughts of this property fitting with the other automotive businesses located on the 133rd Corridor.

Mr. Wilkening stated he does not completely disagree with Mr. Kiepura regarding the timeline. While the proposed business is a good idea and they are proposing a nice building, he is not certain it is a good plan.

Mr. Bunge discussed the property being zoned B-3, the Petitioners having a use and purpose which fits the current zoning. He is not understanding the dissention, as the Board has already agreed to the previous Developmental Variance requests and he feels it is a good use of the property. Discussion ensued.

Mr. Recupito discussed part of their decision-making process on the Board is to look beyond the current petition and future impact the property could have.

Mr. Lee stated if he had started this project after the change in Ordinance, he would not be making this request of the BZA. They had their original petition submitted prior to the change in Zoning Ordinance, and they have not changed their Site Plan since their original submittal. Mr. Lee further discussed not having been advised of needing the Developmental Variances in the beginning, which is why they are needing to request the lot size difference.

Discussion ensued regarding the length of time that went into the Zoning Ordinance and the current requirements agreed upon by the Plan Commission and adopted by the Town Council.

Mr. Jackson inquired if they could limit the use of this Developmental Variance to only this Petitioner. Mr. Recupito stated that would be a question Mr. Austgen could answer. However, any B-1 or B-2 Business uses could build on that lot.

Mr. Wilkening expressed he is uncertain on the practical difficulties, and how they could meet a practical difficulty.

Mr. Austgen advised the Board there is additional consideration to be made. Which is ignorance of something is no defense in the law. It is unfortunate this situation has occurred; however, the burden of proof falls on the Petitioner.

Mr. Homeier discussed the current B-3 lots that do not meet the current Zoning Ordinance requirements and this will be discussed with any changes to any B-3 Zoned lots. Mr. Austgen commented there are suitable lots for a B-3 Zoning district located on US 41, with the Industrial and Commercial is being located. They are wanting to have the 133rd Corridor be less intensive business and discussed the Town's improvement of the 133rd Corridor.

Mr. Lee stated if the Board approves the Developmental Variance, they will ensure the building is top notch and that it will help enhance the Town.

Mr. Bunge discussed the changes that have occurred within the Town and the changes that could have been predicted around 20 years ago. He feels this is a low impact business that is a good use for this property. Mr. Wilkening commented there have been no adjustments to any part of the Petitioner's presentation.

Mr. Recupito advised the Board to keep in mind Mr. Austgen's discussion on where this style of business needs to be located in Town and the changes made in the Zoning Ordinance. Further discussion ensued regarding the submission of the applications for the Plan Commission and BZA.

Mr. Recupito entertained a motion for this item.

A motion was made by Mr. Kiepura and seconded by Mr. Bunge to approve the Developmental Variance to allow the Petitioner to have a lot size of 23,800 feet per the Findings of Fact. Motion passed by roll-call vote by 3-Ayes to 2-Nays:

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

3. 2022-30 Zambo – 7310 West 134th Place – Developmental Variance

Owner: Dan Zambo, 1008 Royal Dublin Lane, Dyer, IN 46311

Petitioner: Harry Koester, 3622 41st Lane, Highland, IN 46322

Vicinity: 7310 West 134th Place, Cedar Lake, IN 46303

Mr. Recupito advised the next order of business is for a Developmental Variance to allow the Petitioner to have a setback of 15 feet from 134th Place and 20 feet from Fulton Street by Petitioner Mr. Harry Koester for a property located at 7310 West 134th Place.

Ms. Abernathy advised the Board Mr. Koester was requesting a withdrawal from the BZA as they are intending to meet Zoning Ordinance requirements for their property.

Withdrawal was acknowledged.

4. 2022-27 Pine Crest Marina – 14415 Lauerman Street – Developmental Variance

Owner/Petitioner: Bob Gross, 14415 Lauerman Street, Cedar Lake, IN 46303

Vicinity: 14415 Lauerman Street, Cedar Lake, IN 46303

Mr. Recupito advised the next order of business was for a Developmental Variance to allow the Petitioner to construct a 100-foot by 150-foot cold storage building, with a wall height of 42 feet, located on a lot

with other accessory structures by Petitioner Mr. Bob Gross for a property located at 14415 Lauerman Street. Mr. Austgen advised any motion will need to be contingent upon legals.

Mr. Bob Gross stated they are requesting permission to build a cold storage building for increased boat storage, which will allow for more function of the building. This is similar to other marinas around the country.

Mr. Salatas advised this property is zoned Resort and fits the nature of this development.

Mr. Gross stated he intends to determine setbacks and the like later. Currently, he is looking to see if he could obtain the Developmental Variance. Mr. Salatas advised if the Developmental Variance is approved, the next step would be going in front of the Plan Commission and going through the platting process.

Mr. Jackson asked Mr. Gross about the height due to the drawing provided having a 32-foot wall height with a 42-foot height at the peak. Mr. Gross stated the height at the peak should be 42 feet, and the sidewalls are anticipated to be 36 feet.

Mr. Gross advised if he is allowed to construct the cold storage building, the green building on the north side of the property will be removed due to no longer being functional. By allowing for this building, it will allow for them to store more boats inside and reduce the number of boats stored outside. Mr. Gross discussed how they have been storing boats, including at a property in Lowell that has now been sold.

Mr. Recupito inquired what the current height is of the building proposed to be torn down. Mr. Gross responded he would estimate it to be 32 to 34 feet in height. However, he is not certain on the height. Discussion ensued regarding the buildings currently on the property and potential future plans.

Mr. Kiepura inquired where the storage building was going to be placed. Mr. Gross described the area he intends to place the building, and advised he could move the building, if needed.

Mr. Recupito asked if there will be further variance requests. Mr. Gross stated currently he is looking for the height of the building.

Mr. Bunge asked if there was going to be a fire suppression system in the building. Mr. Gross advised he had talked with the Fire Chief and the Fire Chief stated he did not need a fire suppression system due to the fact the building is cold storage. Discussion ensued.

Mr. Kiepura asked Mr. Gross for the property size of where the cold storage building will be located. Mr. Gross stated he is not certain at this time, due to the number of parcels that comprise the property. Mr. Austgen asked if there will be a One Lot Subdivision. Mr. Salatas stated that is the plan. Discussion ensued at length on how the property would be subdivided.

Mr. Gross discussed the long-term plan he had for the property, including which buildings are anticipated to stay. He intends to eventually remove all but the proposed storage building in the future.

Mr. Wilkening asked if there will be any boats stored outside with the new storage building. Mr. Gross advised there will still be some boats stored outside. Last year, they had stored approximately 230 boats and the proposed building will only hold approximately 150 boats.

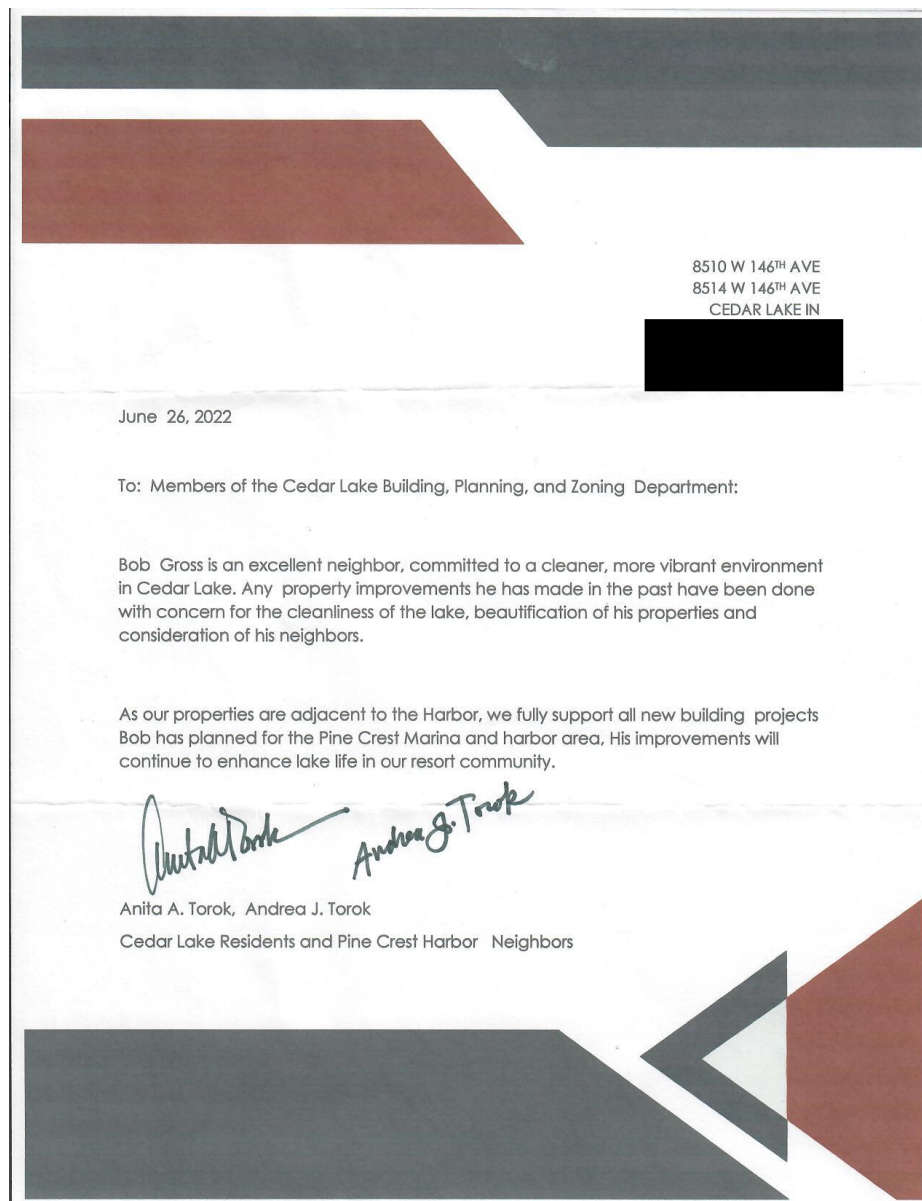
Board of Zoning Appeals

August 11, 2022

Mr. Kiepura asked if the building was going to be taller than any of the current existing buildings. Mr. Gross advised it would be a bit larger than the existing buildings and discussed the building and wall height of the building.

Mr. Recupito opened the floor for any public comment for or against this item.

Mr. Recupito read into the record a letter from Ms. Anita Torok and Ms. Andrea Torok that was provided to the Board.



Having no further public comment, Mr. Recupito closed the Public Hearing for this petition.

Mr. Salatas advised with Resort Zoning, the lot coverage must be less than 50% and he should have more than enough property. It is a potential he could be back for more variances, depending on how the Plan Commission meetings go.

Discussion ensued regarding Resort Bulk Requirements and the Zoning Classification for a marina.

Mr. Gross further discussed his vision for the property and the potential for a Two Lot Subdivision, with Lot One being for service and storage.

Mr. Bunge discussed having gone to different points of the lake to try to visualize the structure on the property and how the tallest building along the lake he could think of is the Lighthouse from the Lighthouse Restaurant. Discussion ensued.

Mr. Wilkening asked about the color scheme of the building. Mr. Gross responded the building will likely be white and blue. However, that color will be further determined during the Plan Commission portion.

Mr. Jackson asked how far the building would be off of the lake front. Mr. Gross advised it would be back from the channel approximately 50 feet. Due to needing a concrete pad for the placement of the boats. They will be doing some sea-wall work with the Ms. Anita Torok and Ms. Andrea Torok, and beautifying the channel.

Mr. Recupito asked Mr. Austgen if some restrictions placed on the motion to include approval from the Plan Commission would be needed. Mr. Austgen responded the restrictions could be placed on. However, before the building can be built, he will need Plan Commission approval.

Mr. Recupito entertained a motion for this item.

A motion was made by Mr. Wilkening and seconded by Mr. Jackson to approve the Developmental Variance to allow the Petitioner to construct a 100-foot by 150-foot cold storage building with an overall height of no more than 42 feet located on a lot with other accessory structures with the Findings of Fact. Motion passed unanimously by roll-call vote:

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

5. 2022-28 Terry – 6712 West 145th Avenue – Developmental Variance

Owner/Petitioner: Brian and Candice Terry, 6712 West 145th Avenue, Cedar Lake, IN 46303

Vicinity: 6712 West 145th Avenue, Cedar Lake, IN 46303

Mr. Recupito advised the next order of business was for a Developmental Variance to allow the Petitioner to have a 6-foot privacy fence in the front yard on a corner lot with a zero-foot setback from 145th and a zero-foot setback from Hobart by Petitioners Mr. Brian Terry and Ms. Candice Terry on a property located at 6712 West 145th Avenue. Mr. Austgen advised the legals are in order.

Ms. Terry stated they would like to request the Board to allow for a 6-foot privacy fence. The advertisement states for two front yards; however, there is no road on the side of the property. Mr. Bunge clarified for Ms. Terry why the advertisement is for two front yards, due to the property fronting on Hobart Street, even though it is an unimproved road.

Ms. Terry advised they had been present last year and had been approved. Unfortunately, circumstances arose that prevented them from installing the fence. Mr. Recupito asked if the previous Developmental

Variance request expired. Mr. Salatas responded in the affirmative and stated due to the previous Developmental Variance expiring, the Petitioner was required to start the process over again.

Mr. Recupito asked if there had been contingencies placed on the previous approval. Ms. Abernathy responded she located the previous approval motion, and if it is the pleasure of the Board, she can read it into the record. Mr. Recupito requested the previously approved motion be read into the record.

A motion was made by Nick Recupito and seconded by Jerry Wilkening to approve the Developmental Variance to allow the Petitioner to have a six ft. (6') privacy fence in the front yard on a corner lot with a thirty ft. (30') setback from 145th and a zero ft. (0') setback from Hobart and to include the findings of fact.

Mr. Bunge discussed the previous motion approved the Petitioners for a 30-foot setback off of 145th Avenue. However, the Petitioners have re-applied for the setback of zero feet from 145th Avenue. Discussion ensued.

Ms. Terry discussed that by having a 30-foot setback off of 145th Avenue, it shrinks their yard considerably, reducing the amount of room their children have to play in. Mr. Wilkening commented he did not have any problems with the zero-foot setback off of Hobart Street. However, he was concerned about having a zero-foot setback off of 145th Avenue.

Mr. Recupito opened the floor for any public comment for or against this item.

Ms. Abernathy advised the Board one of the neighbors called into the Building Department and stated they had no problem with the Petitioner's request.

Mr. Recupito closed the Public Hearing for this petition.

Mr. Recupito stated if they were okay in January 2021 for the previously granted motion, he would be in agreement with making the same motion. Ms. Terry advised the previous home owners had had a fence a few feet away from 145th Avenue. The reason they are seeking this Variance is they have had people come into their yard and talk with their children.

Mr. Bunge asked what the length of their property is from north to south. Ms. Terry responded it is approximately 99 feet. Mr. Bunge commented if the fence is setback 30 feet, it still provides approximately 70 feet of the yard fenced in.

Ms. Terry advised the Board if the fence is 30 feet back, the stairs to the deck will be outside the fence.

Mr. Wilkening asked if zero feet from 145th Avenue would put the fence on the road. Mr. Salatas responded in the negative and stated there should still be a Right of Way. Mr. Wilkening asked how far from the road the fence would be with the Right of Way. Mr. Salatas advised it could potentially be 10 feet.

Mr. Recupito asked what the front yard setback is from the road to the house. Ms. Abernathy advised the setback looks to be approximately 24 feet. Mr. Bunge agreed with Ms. Abernathy's assessment. Discussion ensued.

Mr. Wilkening asked if they had intentions of having the fence go across the driveway with a gate to enter onto the property. Ms. Terry responded in the negative.

Discussion ensued regarding the previous approval and the Zoning Ordinance requirements for fences in a front yard.

Ms. Terry asked the Board if they would be amenable to allowing the fence 10 feet off of 145th Avenue. Mr. Bunge asked if they would still need a variance if they were to be 10 feet from 145th Avenue. Mr. Salatas advised the Petitioner would still need a Developmental Variance for having a privacy fence in the front yard and the advertisement is for a 6-foot privacy fence in the front yard. As such, if the Petitioner were to move the fence back 10 feet, it would still be considered to be in the front yard. Discussion ensued.

Ms. Terry requested a deferral to the September meeting. Mr. Recupito entertained a deferral for this item.

A motion was made by Mr. Wilkening and seconded by Mr. Bunge to defer this item to the September BZA Meeting. Motion passed unanimously by roll-call vote:

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

6. 2022-29 Guca – 7406 West 128th Court – Developmental Variance

Owner/Petitioner: Lukasz Guca, 14424 Morse Street, Apartment O, Cedar Lake, IN 46303

Vicinity: 7406 West 128th Court, Cedar Lake, IN 46303

Mr. Recupito advised the next order of business was for a Developmental Variance to allow the Petitioner to construct a New Home with a rear yard setback to 27.6 feet; and a side yard setback on a corner lot to 19 feet on Knight Street by Petitioner Mr. Lukasz Guca for a property located at 7406 West 128th Court.

Ms. Abernathy advised the Board Mr. Guca requested a withdrawal from the BZA due to the Petitioner intending to meet the Zoning Ordinance requirements.

Withdrawal was acknowledged.

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

Mr. Kiepura discussed the B-3 Zoning Requirement for lot size and expressed his thoughts on the potential of amending the B-3 Zoning Requirements to encompass the B-3 Lots that do not meet current requirements. Mr. Austgen commented the B-3 Zoning was evaluated at length by the Plan Commission.

Mr. Wilkening discussed the creation of Legacy Lots for occupied residential lots and commented on having a similar Legacy Lot for existing commercial properties.

Mr. Austgen advised the Board that they do not want to legislate the exception. When the Zoning Ordinance is set into place, it will allow for quicker decision making for the Board. The Town's vision follows the Comprehensive Plan, and that follows the development pattern and path of the Town. Discussion ensued.

Board of Zoning Appeals

August 11, 2022

Mr. Kiepura stated with the smaller B-3 Zoned Lots, staff would need to advise the individual the appropriate use for the lot size. It would be beneficial for both the potential Petitioner and the Board, if the individual is made aware of the lot size requirement from the beginning.

Mr. Austgen discussed the potential of creating an information pamphlet for the Zoning Districts to provide to the potential Petitioner. Mr. Wilkening inquired if an item such as this already existed for the BZA. Mr. Austgen responded in the negative and advised the only item awaiting BZA review is the BZA Rules and Regulations. Further discussion ensued regarding B-3 Zoning Districts and the 133rd Commercial Corridor.

Mr. Austgen discussed that a solution for the B-3 Zoned properties in the 133rd Commercial Corridor could be to have the property be rezoned to a B-1 or B-2 Zoning Classification. Multiple conversations ensued simultaneously.

ADJOURNMENT: Mr. Recupito adjourned the meeting at 8:50 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.

Cedar Lake Board of Zoning Appeals: August 11, 2022, Minutes