



CEDAR LAKE BOARD OF ZONING APPEALS MINUTES
CEDAR LAKE TOWN HALL, 7408 CONSTITUTION AVENUE, CEDAR LAKE,
INDIANA
November 10, 2022 at 6:00 pm

Call To Order:

Mr. Recupito called the Board of Zoning Appeals meeting to order at 6:00 pm, on Thursday, November 10, 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, Planning Director. **Absent:** None.

Approval Of Minutes:

Mr. Recupito entertained a motion for the Minutes of the October 13, 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

Mr. Recupito requested Mr. Austgen explain what could occur if a denial was received regarding their request from the BZA. Mr. Austgen explained the differences between Developmental Variance and Variance of Use, in particular that a Variance of Use receives a recommendation from the BZA to the Town Council and the BZA makes a determination regarding a Developmental Variance request. Any relief sought from the BZA or the Town Council requires a Petition for Judicial Review, which is noted in IC 36-7-4-900 series, IC 36-7-4-1000 series, and IC 36-7-4-1600 series.

Old Business:

1. 2022-46 Frey – 109 Broadway – Developmental Variance

Owner/Petitioner: Donald Frey, 332 East 125th Place, Crown Point, IN 46307

Vicinity: 109 Broadway, Cedar Lake, IN 46303; aka 13315 Lincoln Way, Cedar Lake, IN 46303

Mr. Recupito advised the first order of Old Business was for a Developmental Variance to allow the Petitioner to have a lot size of 6,250 square feet, a front yard setback of 18.3 feet, and a side yard setback of 2 feet on an existing lot with an existing structure. Mr. Austgen advised this is a continued hearing and the legals are in order.

Mr. Donald Frey stated he is present to request the variance as stated by Mr. Recupito. The property he purchased had been built in 1952 and he had been advised after purchase the property has two addresses and is not plotted correctly. It has been requested by the Town to apply for the requested Developmental Variance so a One Lot Subdivision can be created.

Ms. Abernathy advised that when Mr. Frey applied for and received his Variance of Use earlier in the year, it was requested that Mr. Frey go through the subdivision process. The lot and building are already existing, but due to the property going through the platting process, the property either needed to be brought to current Town code or request variances from the BZA.

Mr. Recupito asked if there would be no way to make the property compliant with current Town codes. Ms. Abernathy responded in the negative.

Mr. Wilkening asked if the One Lot Subdivision process is complete. Mr. Salatas responded the property is currently going through the Plan Commission.

Mr. Recupito asked if there was any public comment for or against this item; seeing none, Mr. Recupito closed the Public Hearing for this petition.

Mr. Bunge asked Mr. Frey if there was any intent on adding onto the building. Mr. Frey responded in the negative and stated he has no intent on making any structural changes to the building.

Mr. Recupito asked Mr. Austgen if Developmental Variance will be needed if there is an existing lot with an existing structure that goes through the platting process. Mr. Austgen responded in the affirmative and recommended any favorable motion be contingent upon subdivision plat approval being complete.

A motion was made by Mr. Kiepura and seconded by Mr. Wilkening to approve the Developmental Variance to allow the Petitioner to have a lot size of 6,250 square feet, a front yard setback of 18.3 feet, and a side yard setback of 2 feet on an existing lot with an existing structure contingent upon subdivision plat approval 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

New Business:

1. 2022-47 White – 8017 West 146th Avenue – Developmental Variance
Owner/Petitioner: Glenn & Heather White, 8017 W 146th Ave, Cedar Lake, IN 46303
Vicinity: 8017 W 146th Ave, Cedar Lake, IN 46303

Mr. Recupito advised the first order of New Business was for a Developmental Variance to allow the Petitioner to construct a 14-foot by 20-foot garage with 5 feet of separation between the garage and the house by Petitioners Mr. Glenn White and Ms. Heather White. Mr. Austgen advised the legals are in order and noted the submission of proposed Findings of Fact.

Mr. Glenn White and Ms. Heather White were present on behalf of the petition.

Mr. White advised the current garage on the property is in disrepair and they would like to demolish the existing garage and replace it with a new garage.

Ms. Abernathy advised they are requesting to reconstruct the garage 5 feet from the house and are looking to rebuild in the location of the existing garage. The garage will meet all other accessory structure requirements. The Building Inspectors reviewed the proposed plan and had no comments of concerns at this time.

Mr. Jackson asked if nothing was changing where they were installing the garage. Mr. White responded they will be installing the garage in the exact location to the west. However, to the east it will be 5 feet further in. They intend to comply with the Zoning Ordinance for the rest of the structure.

Mr. Recupito asked what is the current separation between the house and the garage. Ms. White advised when she purchased the property the house had just recently been constructed and the garage had been existing. There has been an addition added onto the house which brought the house closer to the existing garage. Mr. White stated he believes the current garage is approximately 8 feet from the house. Discussion ensued.

Ms. Abernathy asked the Petitioner's to clarify the garage size that they are wanting to construct due to the advertisement for the Public Hearing advertising a 14-foot by 20-foot garage. Ms. White clarified they are wanting to construct a 20-foot by 26-foot garage.

Mr. Recupito asked Mr. Austgen if they could continue the public hearing or if there would need to be readvertisement completed. Mr. Austgen advised amending the advertisement and deferring this item to the December BZA Meeting. Discussion ensued regarding the request and the advertisement.

Ms. Abernathy commented the Petitioners feel their garage is unsafe and they would like to demolish. With the re-advertisement, would the Petitioner be able to demolish the existing garage or would the Board prefer the existing garage remain.

Mr. Wilkening asked if the intent was to utilize the existing foundation or if a new foundation would be poured. Ms. White responded there will be a new foundation poured due to the disrepair of the garage. Ms. Abernathy stated she had advised the Petitioners not to demolish the existing garage. Mr. Recupito stated he had no problem with them demolishing the existing garage and stressed the importance of having this item advertised correctly before they could conduct the public hearing. Discussion ensued.

Mr. Bunge asked the Petitioners if they were approved for a Building Permit to construct the addition for the garage to be closer than the 10 feet separation. Ms. White responded in the affirmative. Mr. Bunge discussed the potential that the addition of the house could have created a self-imposed hardship and explained the potential of the property being non-compliant. Ms. White stated she had followed everything she was supposed to when the permit for the addition was turned in. Ms. Abernathy advised she would pull the Building Permit. Discussion ensued.

Mr. Austgen advised that these discussions should not be occurring until the advertisement is correct and advised the Petitioners to not demolish the garage pending the Developmental Variance.

A motion was made by Mr. Wilkening and Mr. Jackson to defer this item to the December meeting and for the advertisements to be corrected. Motion passed unanimously by roll-call vote:

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

2. 2022-48 Kohler – 14742A Drummond Ave – Developmental Variance
Owner/Petitioner: Tracy Kohler, 14742A Drummond Ave, Cedar Lake, IN 46303
Vicinity: 14742A Drummond Ave, Cedar Lake, IN 46303

Mr. Recupito stated the next order of business was for a Developmental Variance to allow the Petitioner to construct a 15-foot by 17-foot addition onto the rear of their house that will be 20 feet from the rear yard

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property line by Petitioner Ms. Tracy Kohler. Mr. Austgen advised the legals are in order and noted the submission of proposed Findings of Fact.

Ms. Kohler and Mr. Rick Locasto, RC Development, were present for the petition.

Ms. Kohler stated they had moved to a slab-home for health reasons and when they moved her husband was working in office and her daughter was going to go away to college. Since then, her husband's office has changed to make him work remotely and the daughter has decided to remain home. They are looking to build the addition to have room for the office and extra space.

Ms. Abernathy stated they are intending to construct the addition over the existing concrete pad, which is 15 feet by 15 feet. Their intended plan is to build the addition to the 15-foot length and extend the addition 2 feet past the 15-foot width. Their request is to have a rear yard setback of 20 feet and will be compliant with all side yard setbacks.

Mr. Recupito asked if they have any plans for an additional slab. Ms. Kohler stated their intent is to add a 10-foot by 10-foot slab that will be installed on the south side of the addition where they will install the sliding glass door.

Mr. Kiepura asked if the addition would be located 5 feet off of the easement. Ms. Kohler responded in the affirmative and advised they placed it there to keep the addition from being in the easement.

Mr. Recupito asked what is the zoning of the property. Ms. Abernathy responded it is zoned R-T.

Mr. Kiepura asked what the lot coverage would be with the addition. Ms. Abernathy responded they would be under the lot coverage.

Mr. Recupito asked if the addition would be built on the existing pad. Mr. Locasto responded in the negative.

Mr. Recupito asked if there was any public comment for or against this item; seeing none, Mr. Recupito closed the Public Hearing for this petition.

Ms. Abernathy advised the Building Inspectors had reviewed the proposed addition, and they had no concerns as long as the addition did not encroach on the easement.

Mr. Bunge asked if the 25 percent rear yard setback remained for R-T or if it was removed. Ms. Abernathy responded that the 25 percent has been removed.

Mr. Recupito discussed his concerns with the addition and the potential impact it could have on the subdivision. Ms. Abernathy described the process the Petitioner needed to go through prior to submitting a BZA Application. Discussion ensued.

Discussion occurred regarding the lot sizes in the Lynnsway Subdivision.

Mr. Kiepura asked if the property has a fence. Ms. Kohler responded in the affirmative.

Mr. Recupito asked how many bedrooms the house currently has. Ms. Kohler responded it has two. Their intention with the addition is for it to be an office or living room area.

Mr. Recupito stated he felt that they were not meeting the criteria for the third Findings of Fact. Mr. Kiepura agreed with Mr. Recupito and stated he has not seen the discussion of any practical difficulties other than needing more room. This to him is not a practical difficulty to grant.

Mr. Austgen advised the BZA that any motion made should there be inclusion of the Findings of Fact and how they are or are not being met, dependent upon the motion made.

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A motion was made by Mr. Kiepura and seconded by Mr. Wilkening to deny the Developmental Variance with the Findings of Fact, in particular the third Finding of Fact that there appears to be no practical difficulty being demonstrated by the Petitioner. Motion passed unanimously by roll-call vote:

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

3. 2022-49 Galgan – 13225 Truman Circle – Developmental Variance
Owner: Bill & Susan Galgan, 13225 Truman Circle, Cedar Lake, IN 46303
Petitioner: Bill Galgan, 13225 Truman Circle, Cedar Lake, IN 46303
Vicinity: 13225 Truman Circle, Cedar Lake, IN 46303

Mr. Recupito stated the next order of business is for a Developmental Variance to allow the Petitioner to construct a garage addition onto the existing structure with a front yard setback of 10 feet by Petitioner Mr. Bill Galgan. Mr. Austgen advised the legals are in order and noted the submission of proposed Findings of Fact.

Mr. Galgan stated they are looking to construct an addition and a garage addition onto the house. They are requesting the variance as one of the corners of the garage would be 10 feet from the front yard property line.

Ms. Abernathy advised the proposed addition and garage will follow the line of the existing house. If he were to try to move the garage to the north side of the property, it would be over the well which is not allowed. Additionally, the property has some contouring in the back that would prevent the addition from being moved further back.

Mr. Recupito asked Mr. Galgan if the intent is to construct a living space addition, as well as the garage addition. Mr. Galgan responded in the affirmative and stated they are working with the Town on the addition. They will need to obtain their Building Permit and the rest of the addition will comply with the Zoning Ordinance. The corner of the garage is why they are requesting the variance, and they will have the garage attached to the existing structure.

Mr. Kiepura asked if they were constructing a 24-foot by 25-foot garage. Mr. Galgan responded in the affirmative.

Discussion ensued regarding the requested front yard setback and why the request is for 10 feet.

Mr. Recupito asked if there was any public comment for or against this item; seeing none, Mr. Recupito closed the Public Hearing for this petition.

Ms. Abernathy stated both the Building Inspectors and Mr. Oliphant have reviewed the proposed Site Plan. The only concern reported was to ensure that the addition does not go into the floodplain. Prior to a Building Permit being issued, a topography survey will need to be submitted with the Site Plan. The Petitioner has been advised of this requirement.

Mr. Galgan advised if the addition does cross into the floodplain, they will shorten the addition to avoid having the structure in the floodplain. Discussion ensued.

Mr. Kiepura asked if the existing garage will be demolished. Mr. Galgan responded the existing garage will become a part of the addition and will be remodeled.

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Mr. Recupito asked if there were any concerns with parking in front of the garage with the 10-foot setback. Mr. Galgan responded in the negative and stated they will still have parking available. Additionally, due to the angle of Truman Circle, part of the garage will be approximately 38 feet from the road.

Mr. Kiepura asked how close other houses were in the neighborhood. Ms. Abernathy advised one of the houses appeared to be approximately 4.8 feet from the road. Discussion ensued about setbacks along Truman Circle.

Mr. Bunge asked if the existing detached garage would remain. Mr. Galgan responded in the affirmative.

Mr. Recupito discussed he was appreciative of the fact the property owner was attempting to make the rest of the property compliant with the Zoning Ordinance and understood the difficulties in developing the property. Mr. Recupito asked the Board for their opinions.

Mr. Wilkening expressed concern about the side yard and flood plain. Ms. Abernathy advised that prior to any Building Permit being approved, it would be reviewed by Mr. Oliphant.

Mr. Recupito asked the Petitioner if the side yard setback will be 9 feet. Mr. Galgan responded in the affirmative and the proposed side yard setback is in compliance with the Zoning Ordinance. Discussion ensued.

Mr. Wilkening asked if the survey was from 2020 or if the survey with the proposed modification was from 2020. Mr. Galgan responded the modifications are current, they received the survey in 2020.

Mr. Recupito advised any motion to include a topography survey that is reviewed and approved by Mr. Oliphant.

Mr. Bunge stated his only concern would be from a safety aspect and the ability of safety vehicles to traverse the area. Mr. Galgan stated they did not intend to bring the garage closer to the property line than the closest point of the house to the road. Discussion ensued.

Mr. Recupito discussed the potential of having a topography survey conducted with the proposed addition and garage included on the survey and reviewed by Mr. Oliphant prior to a motion being made.

Mr. Galgan explained how the 10-foot request was determined and how the numbers on the survey presented to the board were determined. If they are approved for the 10-foot front yard setback, they will ensure that they meet the approved 10-foot.

Mr. Wilkening asked if the Petitioner would be accepting of a deferral to ensure the 10-foot would be accurate. Mr. Galgan responded he would prefer a Board decision tonight. Further discussion ensued regarding the 10-foot front yard setback request and the Petitioner's willingness to ensure the 10-foot setback is met.

A motion was made by Mr. Wilkening and seconded by Mr. Jackson to approve the Developmental Variance to allow the Petitioner to construct a garage addition onto the existing structure with a front yard setback of 10 feet with the contingencies that there is a floodplain evaluation by the Town Engineer with the costs and expenses to be paid by the Petitioner, and for the south side yard to be a minimum of 9 feet with the Findings of Fact in particular that the strict application of the Zoning Ordinance do create practical difficulties based on the existing structures. Motion passed by 4-Ayes to 1-Nay by roll-call vote:

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

4. 2022-50 Meekma – 13903 Laque Drive – Developmental Variance

Owner: Meekma Family Trust, 11323 Cline Avenue, Crown Point, IN 46307

Petitioner: Jim & Deborah Meekma, 11323 Cline Ave, Crown Point, IN 46307

Vicinity: 13903 Laque Drive, Cedar Lake, IN 46303

Mr. Recupito stated the next order of business was for a Developmental Variance to allow the Petitioner to construct 40-foot by 25-foot accessory structure in the front yard of a Lake Lot approximately 27 feet from the front yard setback, approximately 7 feet from the private drive, and to extend over the 50-foot building line by Petitioner Mr. Jim Meekma and Ms. Deborah Meekma. Mr. Austgen advised the legals are in order and noted the submission of proposed Findings of Fact.

Mr. Meekma stated the lot is non-conforming. They would like to keep their house in line with the neighboring houses. The lot has a 20-foot private drive easement and the 30-foot front yard setback begins after the 20-foot private drive easement.

Ms. Abernathy discussed the platting process of the property that occurred at the Plan Commission, including the addressing for the properties and the determining of the front yard and front yard setback. This is the reason for their Developmental Variance requests.

Mr. Recupito asked if the plans submitted with their variance request is what the Petitioner intends to construct. Mr. Meekma responded in the affirmative.

Discussion ensued regarding the Laque Drive and the documentation found during the platting process.

Mr. Kiepura asked what the proposed lot coverage is for the property. Ms. Abernathy responded the lot coverage is approximately 13 percent. The property was discussed with the Building Department, the Building Inspectors had no comments regarding the accessory structure being located in the front yard.

Mr. Recupito asked for clarification on fronting on a private drive and the 7-foot distance from the private drive request. Ms. Abernathy advised with the Zoning Ordinance update, it allows for a property to front on a private or dedicated road, provided it is improved to Town's standards. Thus, the Petitioner's proposal is to build the accessory structure 7 feet from their road. Discussion ensued.

Mr. Recupito discussed the Petitioner's comments of wanting to conform with adjacent properties as their third Findings of Fact. Ms. Meekma stated they would like to conform with their neighbors to not block any views.

Mr. Bunge asked if the garage is attached to the house by a small corner. Mr. Meekma responded in the affirmative. Ms. Abernathy advised this does bring the concern of how attached is an attached garage. Mr. Meekma stated if the garage is not attached enough, they can increase the footprint of the attachment. Discussion ensued.

Mr. Recupito asked what is the lot size. Ms. Abernathy responded the lot is 276.35 in length and 121.5 in width for an approximate square footage of 38,066.

Discussion ensued regarding what occurred at the Plan Commission for the platting process.

Mr. Recupito asked if there was any public comment for or against this item; seeing none, Mr. Recupito closed the Public Hearing for this petition.

Mr. Recupito discussed his concerns with the parcel having been divided, and after being divided appearing to not be buildable without the need for variances. Mr. Kiepura stated when the property was being replatted, there had not been any proposals for what would be constructed on either lot.

Mr. Kiepura asked what was the proposed garage size. Ms. Abernathy responded it was 1,000 square feet, which is the maximum accessory structure size allowable for their lot.

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Mr. Wilkening asked for clarification on the hardship. Mr. Meekma stated their intent is to stay in line with their neighbors' houses and feel the lake is the focal point and front of the house. Mr. Wilkening stated it had been mentioned that a "I want" is not a hardship, and the property is a vacant lot that is not presenting any hardships. Discussion ensued.

Mr. Meekma stated he felt the lot is non-conforming due to not bordering on a street and having a designated front yard. Ms. Abernathy advised when the property was platted, they did include a front yard with the 20-foot drive easement and the 30-foot front yard setback. The property is in conformance with the current Zoning Ordinance.

Discussion occurred regarding R-2 Zoning District bulk standard requirements.

Mr. Recupito stated while the first two Findings of Fact are being met, it does not appear that the third Finding of Fact is being met, and discussed what could occur if the petition was denied.

Mr. Meekma advised they wished to withdraw their petition at this time. A motion was made by Mr. Wilkening and seconded by Mr. Kiepura to acknowledge the Petitioner's withdrawal. Motion passed unanimously by roll-call vote:

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

Public Comment: Mr. Recupito opened the floor for public comment.

Ms. Abernathy provided an updated BZA Application Packet to the Board for their review.

Ms. Abernathy advised she had been working on an updated to the BZA Application with Mr. Salatas and Mr. Austgen and discussed the packet provided to the Board. There are two options available for language of having the Petitioner taking care of all publications and mailings, with the advertisement being provided by the Town, or increasing the variance filing fee and the Town handling all matters related to the public hearing.

Mr. Austgen discussed the inclusion of minimum materials required for submission of an application.

Mr. Kiepura asked if they had any comments should they communicate them to Ms. Abernathy. Mr. Austgen responded in the affirmative. Discussion ensued regarding the packet update.

Adjournment: Mr. Recupito adjourned the meeting at 8:00 p.m.

TOWN OF CEDAR LAKE BOARD OF ZONING APPEALS

Jeff Bunge

John Kiepora

Eric Burnham

Greg Parker

Ray Jackson

ATTEST:

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: November 10, 2022 Minutes