



CEDAR LAKE BOARD OF ZONING APPEALS MINUTES
CEDAR LAKE TOWN HALL, 7408 CONSTITUTION AVENUE, CEDAR LAKE, INDIANA
December 8, 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, December 8, 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 Kieपुरa; Jeff Bunge, Vice Chairman; and Nick Recupito, Chairman. A quorum was obtained. **Also Present:** David Austgen, Town Attorney; Ashley Abernathy, Planning Director; Cheryl Hajduk, Recording Secretary. **Absent:** None.

Old Business:

1. 2022-41 Burrink – 14335 Truman Street – Developmental Variance

Owner/Petitioner: Robert & Kathleen Burrink, 14335 Truman Street, Cedar Lake, IN 46303

Vicinity: 14335 Truman Street, Cedar Lake, IN 46303

Mr. Recupito stated the first order of Old Business is for a Variance of Use request for the Petitioner allow the Petitioner to construct an addition onto an existing house with an overall height of no greater than 36 feet, for the front yard setback to be reduced to 5 feet, the side yard setback along the north side of the property to be 4 feet to be consistent with the existing structure, and for an overall lot coverage of 46%. Mr. Austgen advised the legals are in order.

Mr. Burrink stated they would like to have an extension on the home. The garage will not be on the street side of the property, it is a dead-end street and cannot hold a standard vehicle. They are requesting the addition of the 5 feet offset. The majority of the North side of the property is a 4-foot offset and they would like to make the additions consistent with that up to the streetside.

Ms. Abernathy stated that she reviewed this with the Building Department and currently there are no problems and the street dead ends to an apartment complex. We would prefer a hard number than the 36 feet. Mr. Burrink stated that after talking with their architect, that exceeded what it would be.

Mr. Recupito asked if there any architectural renderings with this project. Mr. Burrink commented no. The architect made some additional plans if we were to remove the home, but we decided to modify the home.

Mr. Recupito commented that he would like to see more renderings, especially when we are talking about a 36-foot height and an addition.

Ms. Abernathy stated they appeared on the October BZA Agenda and they requested a deferral because they were updating the application.

Mr. Wilkening agreed there needs to be more renderings and asked Ms. Abernathy if she said the Building Department was good with the dead-end street. Ms. Abernathy responded in the affirmative.

Mr. Bunge commented he has a concern for public safety.

Mr. Jackson stated he would like to see some drawings plus understand the 36-foot height, which is higher than what is allowed. Mr. Burrink commented this is a random number and right now this is basically a 2 ½ story home. Their intent was to get approval then have the renderings and drawings completed for submittal.

Mr. Recupito commented that we get more information than the Plat of Survey. This is a large project and they are asking for a lot of variances. Mr. Burrink commented that no view would be inhibited. Mr. Wilkening stated we need something from the street, lake view, even CAD drawings.

Mr. Burrink stated if the setbacks would be okay, they are willing to hear about the height.

Mr. Kiepura asked what is the coverage rate. Ms. Abernathy stated it is a 23.9% coverage rate. Mr. Kiepura stated that the coverage rate would double.

Mr. Recupito commented that we keep up with the Zoning Ordinance. They would like to see architectural renderings. Discussion ensued.

Mr. Recupito asked if they should defer. Mr. Kiepura stated that we need to tell them what we want to see and what is the coverage on those small lots. Mr. Recupito stated 25%. Ms. Abernathy stated if it were a legacy lot, then it would be 50% but it is 6,260 square feet which is 1,264 feet over the legacy lot overlay District requirements.

Mr. Recupito stated 25% lot coverage, 8-foot side yards, 30-foot front and near yard setbacks (or discussed R-2 Bulk Standard Requirements).

Mr. Kiepura asked if they are trying to keep the building lines the same as the existing building or expanding it. Mr. Burrink stated on the North side they intend to follow the existing 4-foot setback. The existing South setback is about 6 feet and they would like to reduce it to 5 feet.

Mr. Recupito stated it would be North, South, East, West elevations of this project.

Mr. Kiepura asked if they were proposing adding an addition on the front of Lake Side. Mr. Burrink responded in the affirmative.

Discussion ensued regarding rendering.

Mr. Kiepura asked if there is a garage. Mr. Burrink stated there is a 1 ½ car garage on the street side, which is 17 ½ feet deep. We want to add an additional 8 feet toward the street and continue to the North to match the 4-foot setback on North side of the house against the apartment building side of the

property. We would include an addition to the second floor of the garage. We would increase the upstairs the same dimension of the new garage.

Mr. Bunge asked if it will be one story above the garage. Mr. Burrink responded in the affirmative. Mr. Bunge asked if the property slopes down to the lake. Ms. Abernathy advised it appears flat going to the lake.

Mr. Wilkening would like the topographical if it isn't too hard to get and stated they would like to see architectural rendering.

Mr. Recupito asked when they would want a deferral. Mr. Burrink requested a deferral to March.

Mr. Recupito entertained a motion for this item. A motion was made by Mr. Wilkening and seconded by Mr. Kiepura for Petitioner's deferral request to March 9, 2023. Motion passed unanimously by roll-call vote:

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

2. 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 stated that the next order of Old Business is a Developmental Variance is to allow Petitioner to construct a 20 foot by 26-foot garage with 5 feet of separation between the garage and the house. Mr. Austgen advised the legals are in order.

Mr. Recupito stated that this was deferred from last month, and gave staff some time to gather some information.

Ms. Abernathy stated that she pulled the original addition permit, and the garage was constructed with 10 feet of separation from the house. The original addition permit is included in your packet. When the garage and addition were built in 2005 or 2006 was compliant with the Zoning Ordinance at the time and it still current.

Mr. Recupito commented we had some concerns of hardships being created last month.

Mr. Recupito asked if the proposed garage is 20-foot wide by 26-foot deep. Mr. White confirmed.

Mr. White asked if this changes the variance request. Ms. Abernathy stated that this is why we deferred from last month so that the publications can be updated to reflect the correct request to build the 20-foot by 26-foot garage with a 5-foot separation. It was assumed the request for 14 feet by 20 feet garage based on the demolition permit. It has been updated to reflect the proper variance request.

Mr. Recupito asked what was the current size garage. Ms. Abernathy commented 14 feet by 20 feet.

Mr. Recupito asked if they are still maintaining 6-foot from the property line. Ms. Abernathy stated yes

and they are still maintaining 6-foot side yard and 10 feet from rear. Thus, is compliant with the Zoning Ordinance which requires 6-foot setback from rear inside yards.

Mr. Kiepura asked about the 5 feet of setback between buildings. Ms. Abernathy stated their request to reduce from the 10-foot separation to 5-foot separation. Mr. Recupito asked if there will be 10 feet from the back of the garage to the rear property line. Ms. Abernathy stated that is what is proposed.

Mr. Recupito asked if the garage could be moved back to the 6-foot setback requirement. If they can bring the garage to 6-feet from the rear yard, it would allow 9 feet between the house and garage. Mr. White discussed the existing setbacks and if it were left the same width, it would still be a one car garage.

Mr. Recupito discussed that the plans showed 10-foot between rear property line and garage. All that is required is six feet correct. Why can't the garage be shifted North four feet to give more separation between the house and the garage. Mr. White stated that if they went South, then it would go more to the side of the house. Mr. Recupito asked why they haven't utilized the extra four feet in the backyard. Discussion ensued.

Mr. Bunge discussed the fire safety concerns and reason for the 10 feet of separation.

Mr. Recupito asked Mr. Austgen do we need to open up a public hearing. Mr. Austen stated yes.

Mr. Wilkening asked if the garage is attached to the house. Mr. White stated that it will be de-attached.

Mr. Recupito asked if they would have to keep 8-foot from the side yard instead of the 6-foot. Ms. Abernathy stated yes, and if they attach the garage to the house, then they would have to comply with the 8-foot side yard setback and making sure they are still 30 feet back from the front yard.

Mr. Recupito asked if the garage has been demolished. Mr. White stated no, but will be demolished.

Mr. Kiepura commented that they should go back to the builder to move the garage back at least 9 feet between the buildings.

Mr. Recupito stated the Findings of Fact was filled out.

Ms. Abernathy commented this was shared with the Building Department, and they had no comments at that time.

Mr. Kiepura stated that they do not need a new plat but it needs to be laid out better. Mr. Kiepura asked what the striped area is. Ms. Abernathy stated that is where the addition was installed.

Mr. Recupito stated if they can get the plat cleaned up, and a reason from the builder as to why it can or cannot be done. Mr. Kiepura commented if it can be moved or an explanation because if we follow the three questions. Number 3 doesn't show a hardship or difficulty. They need to show what the difficulty is if it is kept at 5 feet.

Mr. Recupito asked Ms. Abernathy if there is someone at the Building Department to check this to verify why they cannot be at 6-feet. Ms. Abernathy commented that she would ask the Building Inspectors to take a look at the land. Mr. Kiepura stated they can request a deferral for next month and they can contact their builder and be in communication with Ms. Abernathy.

A motion was made by Mr. Kiepura and seconded by Mr. Bunge to defer to January 12, 2023. 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. 2022-51 Gifford – 13530 Morse Street – Variance of Use
BWG Properties LLC, 13530 Morse Street, Cedar Lake, IN 46303
Petitioner: Brian Gifford, 13530 Morse Street, Cedar Lake, IN 46303
Vicinity: 13530 Morse Street, Cedar Lake, IN 46303

Mr. Recupito advised the first order of New Business was for Variance of Use to allow the Petitioner to operate two businesses on one lot located within the same building in a B1 Zoning District. Mr. Austgen advised the legals are in order.

Mr. Gifford stated that he would like to have his insurance agency and satellite real estate business together.

Ms. Abernathy stated that the Zoning Ordinance does not allow for two businesses to operate on one lot. It would be a Variance of Use and a recommendation to the Town Council. Both uses are allowable in a B-1 Zoning District. Nobody in the Building Department had any issues with this.

Mr. Recupito asked if there have ever been two uses on the lot. Ms. Abernathy responded there had been previous variances, but and never one for two uses on the lot.

Mr. Kiepura asked if they are operating right now. Mr. Gifford stated yes. Mr. Kiepura asked how much traffic is there throughout the day. Mr. Gifford stated not much. Discussion ensued.

Mr. Kiepura asked how many parking spots are currently there. Mr. Gifford responded 8 to 10. Discussion ensued.

Mr. Wilkening asked who is BWG. Mr. Gifford stated he is. Mr. Jackson asked if Mr. Gifford owns the property. Mr. Wilkening commented that there is a back hoe behind the garage and a Conex box stored behind the building. Mr. Gifford stated that there is an agreement from the previous owner that the box can stay there for one year.

Mr. Wilkening asked if this is existing non-conforming because the property line goes to the center of the road. Mr. Austgen responded in the affirmative.

Mr. Austgen advised the Board can consider reasonable conditions on any approval considerations or recommendation, for example, removal of that property. I advise the Board to consider any Variance of

Use. Recommendation to the Town Council be for Mr. Gifford and his businesses only, so if there is a change or you leave the property the Variance expires.

Mr. Wilkening asked if Mr. Gifford if he is good with a six months requirement for removal of the excess property. Mr. Gifford responded in the affirmative.

Mr. Recupito opened the floor for remonstrators for or against the variance. Ms. Abernathy stated Ms. Debbie Carey came in and stated did not have a problem with the proposed use.

Mr. Recupito asked if there is an issue with parking per zoning ordinance. Ms. Abernathy stated that the ordinance requires one space for every 200 square feet of floor area for any office businesses and professional offices except for medical offices. Discussion ensued.

Further discussion ensued regarding parking.

Mr. Kiepura asked what the square footage of the building is. Mr. Gifford responded 1,800 square feet.

Mr. Kiepura asked does the 1,800 square feet include the two-car garage. Mr. Gifford stated he believes so. Mr. Kiepura stated that the two-car garage would not be counted in for parking. Ms. Abernathy stated just the office space.

Mr. Austgen commented this property has had a number of users over the last handful of years and there has never been this discussion about parking. The analysis is whether there has been a gap for lack of use. If the gap has not been met the new business would not be required to add another parking space or pave another two more spaces. The property was used that way from predecessors. Discussion ensued.

Mr. Bunge what would be the penalty if the conditions are not met by the end of June. Mr. Recupito commented that citations would be in place.

A motion was made by Mr. Wilkening and seconded by Mr. Jackson to send a favorable recommendation of the Town Council allowing this Petitioner to operate two businesses on one lot located within in the same building in a B1 Zoning District with the contingencies that Conex boxes, back hoe, and any other items that are not supposed to be on the property be removed by the end of June 2023. With this variance of use to be for this Petitioner only and for the businesses of real estate and insurance sales only per 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

2. 2022-52 Kracht– 12841 Wicker Avenue – Variance of Use

Owner: Cedar Lake Commercial, LLC, PO Box 657, St. John, IN 46373

Petitioner: Kendra Kracht, 530 E South Street, Crown Point, IN 46307

Vicinity: 12841 Wicker Avenue, Cedar Lake, IN 46303

Mr. Recupito advised the next order of business is for a Variance of Use to allow the Petitioner to operate a B3 use in an existing building located in a B2 zoning district. Mr. Austgen advised that the legals are in order.

Ms. Kendra Kracht and Mr. Michael Kracht, stated that we would like to open a Rage Room. It is currently in a B-2 zoning but it needs to be in a B-3 zoning.

Mr. Recupito asked what is a Rage Room. Mr. Kracht stated where you go in a room and take 20 minutes and smash up old plates, tvs, washing machines, and the like. There is also a small arcade and a stage hopefully to do an open mic night or concert event once a month.

Ms. Abernathy stated the proposed use would B-3 would fall under amusement which is part of the B-3 Zoning District, and would fit the comprehensive plan for U.S. 41 which the Town Council desires to have as B-3 along the U.S. 41 corridor. There is a B-3 Overlay District along the US 41 Corridor.

Mr. Kiepura asked how big is the property. Ms. Abernathy stated 41,540 square feet. Mr. Kiepura asked if it is all B-2 around that area. Ms. Abernathy stated yes. Mr. Recupito asked if they own the property. Mr. Kracht stated that they are leasing the property.

Mr. Kiepura stated if there is the open mic night and break night, then it would be two uses.

Mr. Wilkening asked if their stuff on the property needs to be thrown away. Ms. Kracht stated that the previous tenants threw it all out. Mr. Wilkening asked if people busted up washing machines, what is done with them. Ms. Kracht stated they would scrap the appliances and behind the property there is an overhang to store and once we get a trailer full of items, we would haul away to the scrap yard. Mr. Kracht commented there would be three different containers for scrap metal, plastic and glass wares and we will have to get an agreement with the dumpster company to see if we need a larger dumpster than what we have. There would never be any standing garbage, etc. We have an agreement with Mason's Appliance Company to bring appliances to us. Things brought to us would be stored inside. The whole backyard is fenced.

Mr. Wilkening asked if they would be adhering to the noise ordinance in town. Mr. Kracht stated yes.

Mr. Wilkening asked what is the occupancy for the building. Mr. Kracht commented he wasn't aware of what the occupancy is.

Mr. Jackson asked how much parking is there. Mr. Kracht stated there is 13 spaces and one handicapped. If restriped, then there would be two more spaces. The building total footprint is 32,00 square feet.

Ms. Kracht commented there will be three rage rooms, a glass only throw zone to throw glass bottles at a brick wall. Mr. Kracht stated he has a diagram of the layout. Ms. Abernathy stated this was not in the packet, but what was turned in was their business plan. Discussion ensued regarding diagram of the layout.

Mr. Kieupra asked how many people are anticipated at a show. Mr. Kracht stated maybe 50 or less. We are not anticipating more. Mr. Bunge stated you do not have parking for 50 spots. Mr. Kieupra with 30 to 100 square feet you need 16 parking spots.

Mr. Recupito asked how are these rooms constructed and how sounds in the building will not come out. Mr. Kracht stated other than insulation and the walls are 2 by 4 framing and sheeting on the sides. Discussion ensued regarding noise going to the outside.

Mr. Kieupra asked what the upstairs is for. Mr. Kracht stated it is a painting room and part recording space. Mr. Kieupra stated this is a third use.

Mr. Jackson asked if the upstairs is included in the square footage. Ms. Kracht stated no. The upstairs is about 600 square feet and is private. Mr. Kracht asked if it was a problem with the previous tenants. Discussion ensued.

Mr. Recupito asked if there was any public comment for or against this variance. Mr. Dan Mihajlovic, 11102 W. 129th, I'm co-trustee on 12845 Wicker Ave. The property is South and property East of said property we are talking about. They have had cars parking on his mother's property. There's junk and garbage on the sides and back of the building. The parking is an issue and accidents on Route 41 with the congested traffic. Mr. Mihajlovic stated he is concerned that the building is not sound proof. Discussion ensued regarding the concerns.

Mr. Trent Vanderzee, 13731 Deodor Street, I'm here to speak against the petition. I do not think it is a good idea, encouraging people to take out their aggression violently. In my opinion, is not a good idea and encourages violence. He feels they should not have it here.

Mr. Recupito commented that the public portion is now closed.

Mr. Recupito stated they heard some of the remonstrators' concerns and Mr. Recupito asked if there is going to be a problem with parking. Mr. Kracht stated he didn't think so. The entrance goes to the gate to the back.

Ms. Abernathy stated that the sound stage and the one night entertainment is not specifically called out in any portion of the Zoning Ordinance except for a tavern in a B-2. It would appear to apply to entertainment. Mr. Recupito asked are we looking at two uses now. Ms. Abernathy stated it could fall under amusement. Mr. Austgen stated it is two uses.

Mr. Kieupra asked what kind of painting do they do. Mr. Kracht stated oil paintings. Mr. Kieupra stated that there is band practice upstairs and there is a third use. It is not for a rehearsal hall, painting studio. Discussion ensued.

Mr. Kieupra stated his concerns about the entertainment and that the building isn't big enough and enough parking.

Mr. Recupito commented there are several uses being discussed and when you look at the Findings of Fact and a Variance of Use, there are five. The one being the approval will not be injurious to the public health, safety, morals and general welfare of the community. We have to consider the Findings of Fact.

Mr. Jackson what are the intended hours of operation. Mr. Kracht commented Wednesday through Sunday. Wednesday and Thursday, 4 pm to 10 pm, Friday 4 pm to 12 midnight, Saturday 2 pm to 12 midnight and Sunday 2 pm to 10 pm. The Saturday has a noise ordinance.

Mr. Recupito asked Mr. Austgen if they have more than one use and was not advertised as multiple uses, will this be a problem. Mr. Austen advised that they need a proper request to be made and a proper application form for the second use. Discussion ensued.

Mr. Recupito stated that the original petition is for a simple B-3 use and a B-2, but there is more than one use. Mr. Kracht would like to clarify that. We explained the full business plan in full. We were told that would be an entertainment use. Mr. Kracht asked what needs to be clarified.

Mr. Austgen stated that this is a public hearing and everything that has been said and talked about is on the record and is official. What has been said elsewhere and has gotten here cannot answer. Mr. Kracht wants clarification. Ms. Abernathy commented that they need to talk with her and they can get the application updated and new advertisement as well.

Mr. Kiepura stated the one remonstrator mentioned that the property was 120 by 330 and that comes to 39,600 and the 40,000 is the square footage for B-3. Ms. Abernathy calculated off the measurements Lake County GIS. Mr. Kiepura asked if this was calculated as the square footage which is 41,000 square feet. Ms. Abernathy responded in the affirmative.

Mr. Recupito asked the Kracht's were clear of what needs to be done. Mr. Abernathy stated they need to call her and can get it updated and get on the January 12th agenda.

Mr. Kiepura asked if they can get some pictures of the back property and wants to see pictures of the fence. Discussion ensued. Mr. Kiepura stated that they need to give serious thought regarding live entertainment.

Mr. Jackson asked how close is the first residential property. Mr. Kracht stated 40 feet to the next house to the north. Ms. Abernathy stated 44 feet from the north and approximately 150 feet to the south.

Mr. Recupito entertained a motion defer this item to January 12, 2023. A motion was made by Mr. Bunge and seconded by Mr. Jackson. Motion passed 4-Ayes to 1-Nay by roll-call vote:

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

3. 2022-53 Madden – 9100 W 137th Place – Developmental Variance

Owner: Derek Wilder, Wilder Dev. Enterprises, 12915 Whitebridge Drive, Fishers, IN 46307

Petitioner: Lynn Madden, 433 E 53rd Street, Anderson, IN 46013

Vicinity: 9100 W 137th Place, Cedar Lake, IN 46303

Mr. Recupito advised the next order of business is for a Developmental Variance to allow the Petitioner to construct a new residential home on a lot with a rear yard setback from 30 feet to 10.68 feet and a reduction in the minimum ground floor from 2, 200 square feet to 1,199 square feet. Mr. Austgen stated

the legals are in order for the public hearing. Ms. Abernathy clarified the reason for the reduction in the 2,200 minimum ground floor square footage is due to the Scribner's error in the Zoning Ordinance.

Ms. Lynn Madden stated that the ordinance has changed after we bought the lot. The rear set back is 30 feet and with it being a corner lot, it would be 30 feet all the way around. Mr. Recupito asked about the reduction in the minimum in size. Ms. Madden clarified that the ordinance changed. The minimum square footage for the first floor went to 2,200 square feet. Ms. Abernathy stated that the 2,200 square feet is not for ground floor square feet. Mr. Recupito asked for clarification about the rear yard setback. Ms. Abernathy stated it changed from 25% depth of the lot to 30 feet.

Mr. Bunge stated it is a unique lot and how are they figuring that out. There is no spot where you get a 90-degree angle away from the property line. Mr. Wilkening asked if there is drainage is between the properties. Ms. Abernathy stated there is a 15-foot utility easement along the front of the neighborhood. Discussion ensued.

Mr. Wilkening asked what is considered the back yard. Ms. Abernathy stated it depends how the house fronts where the address is. They are considering the address off of 137th Place. The rear yard can be considered off of Lot 100, in which the 10.68 feet becomes the side yard. Mr. Wilkening stated there appears to be a 10-foot utility easement on lots 98 and 99. Ms. Abernathy stated they do not have a 10-foot utility easement in the rear yard where the 10.68 foot is proposed to be. It would be between lots 99 and 100. Discussion ensued.

Mr. Recupito commented that the west side can be 8-feet and could be considered a side yard. Mr. Wilkening responded in the affirmative.

Mr. Recupito opened the floor to public comment.

Mr. Vanderzee, 13731 Deodor Street, is in favor for a new residential home. I don't want to see the rear yard at 10 feet but it's the side yard and has no problem with the proposed plans.

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

Ms. Abernathy commented that the Building Department had similar discussions that the 10.68-foot setback can be looked at as the side yard and be in compliant. Mr. Recupito asked historically if they granted any other variances in this subdivision. Ms. Abernathy stated that she did not look into that. Discussion ensued.

Mr. Wilkening asked Petitioner if the garage is going to face 137th. Petitioner answered yes. Mr. Wilkening asked if there will be no garage or driveway coming off Deodor. Petitioner answered no.

Mr. Kiepora asked what the setback on Lot 100 is. Ms. Abernathy stated approximately 25 feet according to GIS.

Mr. Recupito entertained a motion for this item. A motion was made by Mr. Wilkening and seconded by Mr. Kiepora to approve this Development of Variance to allow the Petitioner to construct a new residential home on a lot with a rear yard setback from 30-feet to 10.68 feet and a reduction of minimum ground floor from 2, 200 square feet to 1, 199 square feet, the address is confirmed at 137th and driveway will be

off of 137th and there will be no other driveways off of Deodor Street 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

4. BZA Application Packet Update

Mr. Recupito advised that the last item of new business is BZA Application Packet.

Ms. Abernathy stated this is the packet that was handed out last month. I didn't receive any feedback and Version One included the legal notice and certified mails are prepared by staff and presented to the Petitioner and the Petitioner taking care of all publication and certified mailing, and getting the auditor's list. Version 2 requires that the Town take care of all of that. The pro forma I created if we went to Version 1, we would keep the application fee closer to other municipalities in the area. If we went with the second version then we would need to increase it to cover the filing fee, certification fees, and publication fees.

Mr. Wilkening asked if staff were to take care of all of this and there would need to be a minimum fee. Ms. Abernathy responded in the affirmative.

Mr. Wilkening asked if there was a minimum number that had been calculated. Ms. Abernathy advised the last number calculated put the filing fee at approximately \$400.00. Ms. Abernathy stated the filing deadline is the month before. For example, if they were coming in February then they would need to submit the application the first Friday of January at noon.

Discussion ensued regarding who would handle publications and notices.

Mr. Austgen stated that based upon Indiana Code and our ordinance there is procedural due process. This is getting somebody walking to the front counter to that moment when they walk out with approval, denial or recommendation to the Council. This is Procedural Due Process. The second aspect is Substantive Due Process and the right to a fair hearing and proper dialogue public hearing. Trying to keep it simple for them and us as we consider to engage in dialogue and listen and rule. Costs should be incurred with Petitioner.

Mr. Wilkening commented if photographs are needed, this isn't something that staff should run out and do. It would be very time consuming. Ms. Austgen stated this is an administrative proceeding and our staff is preparing this and have had this historically in Cedar Lake. Mr. Wilkening asked would staff be going out taking pictures. Mr. Recupito commented that this is part of Rules and Regulations.

Mr. Austen stated the burden is on the Petitioner and they need their criteria and they need to bear the burden of proof.

Mr. Wilkening asked if there is something peculiar, will the Building Department go out and take pictures and look over. Discussion ensued.

Ms. Abernathy commented in working with Mr. Salatas in getting everything together for the BZA, Plan Commission and Unsafe since it was a courtesy that the Town was publishing the documentation. Since

June, the Petitioners have been doing their Publications except for those needing to be re-advertised due to my errors. They are given clear, concise direction on what to do.

Mr. Austgen advised if you set a policy, you cannot waiver from moment to moment. Mr. Wilkening commented that we are agreeing that the staff should take care of it, but if someone doesn't want to pay the \$400.00, can we deny them. Mr. Bunge asked if there are other places that charge up to and give the type of service and the service we are providing. Mr. Austgen stated this is the high-end. Ms. Abernathy said the fee would be taken care of in the fee schedule. Mr. Austgen stated an ordinance needs to be adopted for the fee.

Mr. Recupito commented that Version 1 is Petitioner handles items and Version 2 the Town handles these items. Ms. Abernathy responded in the affirmative.

Mr. Kiepura asked since the last six months, the Petitioner has been doing this. Ms. Abernathy responded in the affirmative with the exception of the ones that were re-advertised. Mr. Kiepura asked what is the cost of what Petitioner has to come with out-of-pocket. Ms. Abernathy stated certified mail is \$7.85 per certified, and it is a per line cost to file in the newspaper.

Mr. Austgen stated people will assume everything is accurate when they show up for their scheduled hearing and they begin their presentation. Discussion ensued.

Mr. Kiepura asked if packet #1 would not work out, can we change it. Mr. Wilkening stated he likes Version 2 and we do not have to wait a year to see if it works out. We can tweak it along the way.

Mr. Recupito entertained a motion for this item. A motion was made by Mr. Wilkening and seconded by Mr. Jackson to adopt the BZA Application Packet Update Version 2. Motion passed unanimously by roll-call vote:

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

PUBLIC COMMENT: None

ADJOURNMENT: Mr. Recupito adjourned the meeting at 8:24 p.m.

TOWN OF CEDAR LAKE BOARD OF ZONING APPEALS

John Kiepora

Jeff Bunge

Eric Burnham

Greg Parker

Ray Jackson

ATTEST:

Cheryl Hajduk, 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: December 8, 2022, Minutes