



CEDAR LAKE BOARD OF ZONING APPEALS MINUTES
CEDAR LAKE TOWN HALL, 7408 CONSTITUTION AVENUE, CEDAR LAKE, INDIANA
March 9, 2023 at 6:30 pm

CALL TO ORDER:

Mr. Bunge called the Board of Zoning Appeals meeting to order at 6:30 pm, on Thursday, March 9, 2023 with its members attending on-site. The Pledge of Allegiance was recited by all.

ROLL CALL:

Members Present Via Zoom: None. **Members Present:** Eric Burnham; Greg Parker; Ray Jackson; John Kiepura, Vice Chairman; Jeff Bunge, Chairman. A quorum was obtained. **Also Present:** David Austgen, Town Attorney; Ashley Abernathy, Planning Director; Cheryl Hajduk, Recording Secretary. **Absent:** None.

Approval of Minutes:

Mr. Bunge entertained a motion for the Minutes of the February 9, 2023; a motion was made by Mr. Kiepura and seconded by Mr. Parker to approve the same. Motion passed unanimously by roll-call vote:

Mr. Burnham Aye
Mr. Parker Aye
Mr. Kiepura Aye
Mr. Bunge Aye
Mr. Jackson Aye

Old Business:

- 1. 2022-41 Burrink – 14335 Truman Street – Developmental Variance – Continued Public Hearing**
Owner/Petitioner: Robert & Kathleen Burrink, 143353 Truman Street, Cedar Lake, IN 46303
Vicinity: 14335 Truman Street, Cedar Lake, IN 46303

Mr. Bunge advised the first order of Old Business is a Petitioner requesting a Developmental Variance 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 stated this is already subject to the review of legal notice and is ready to be heard at this time.

Mr. Rob Burrink, 143353 Truman Street, Cedar Lake, IN stated we have come up with a lot proposed coverage of 30% and our maximum height is down to 29 feet and have we submitted renderings.

Mr. Kiepora asked with the redesign are you still requesting the 5 feet front yard. Mr. Burrink responded in the affirmative. A vehicle cannot fit into the garage because of its depth.

Ms. Abernathy commented with the updated information they would not need the height variance because R-2 allows for a height of 30-feet and they would be underneath that. Lot coverage would be reduced from 46% to 30%, which would be a reduction of 16%. Setbacks are still needed for front and side yards. Mr. Burrink stated the side yard setback is currently at 4 feet. I'm taking the 6-foot cavity to the North of the garage and making it equal to the balance of the house. We would like to add 9 feet to the front of our house. Discussion ensued.

Mr. Bunge asked if the privacy fence was staying along Truman Street. Mr. Burrink commented the fence is not on our property. We have a cedar fence that runs along the property line North and South.

Mr. Austgen stated this Petition that was applied for has been amended. We have clarity of record and what this Petition has become. Looking at the agenda, and the italicized portion reflects what the application was when made originally versus what it has morphed to so we have a clean record. Discussion ensued regarding what was originally wanted.

Mr. Burnham asked if the front yard will invade into the driveway and add on to that. How big is the driveway. Mr. Burrink responded in the affirmative and a car cannot fit into the driveway. Discussion ensued.

Mr. Burnham asked what is the measurement from Truman Street to the new garage. Ms. Abernathy stated 5 feet from the front yard to the front of the house.

Mr. Bunge asked if there were any remonstrators for or against this Variance. Seeing none, Mr. Bunge closed the floor for public comment.

Ms. Abernathy commented that our inspectors reviewed this and one of their comments was regarding the length of the driveway. If the front yard setback is granted, there would be an issue with water regarding the elevation and the garage due to the depth of the garage. There are concerns with the parking issues and the Building Department is currently sending an unfavorable recommendation based on these findings. Discussion ensued regarding the garage floor and water drainage.

March 9, 2023

Mr. Parker asked will the garage addition go to the street. Mr. Burrink responded in the affirmative but discussion ensued regarding the overlays on the street that has raised up the street.

Mr. Parker asked if the Town has plans to reconstruct the road. Mr. Austgen responded in the negative. Discussion ensued.

Ms. Abernathy stated when it comes to the lakefront property, especially in the older pre-platted subdivisions before any permit is pulled, we often send it to Mr. Oliphant for review to make sure we do not run into issues from the past and water is flowing where it needs to go.

Mr. Kiepura commented the issue is to remove the water from the front of the garage. Discussion ensued regarding the water drainage from the garage.

Mr. Parker asked if part of this can be approved or does it all need to be handled as one. Mr. Burrink commented the garage is phase 1 of this project. The crowning of that street is obvious and if the Town would consider looking at the road and what is viable, it is about managing the grades and flow. It's as easy as stripping down the end of the road, clearing the trees and taking a look at the topology map and where the water should be going. Discussion ensued where the water would flow.

Mr. Kiepura asked do we defer this whole matter until a solution is made for the water problem and go ahead with the house and re-submit the plan for the garage. Mr. Austgen advised this should get handled at one time with Engineering considered. Discussion ensued. Mr. Carnahan commented the Storm Board has a limited amount of money and they are trying to determine what projects they are going to work on. The Town Engineer might be able to give you ideas of what needs to be done.

A motion was made by Mr. Kiepura and seconded by Mr. Parker to defer Petitioner's request to the next BZA Public Meeting depending on information collected and cleanup of the petition. Motion passed unanimously by roll-call vote:

Mr. Burnham Aye

Mr. Parker Aye

Mr. Kiepura Aye

Mr. Bunge Aye

Mr. Jackson Aye

New Business:

1. 2023-04 Culver's – 9717 W 133rd Avenue – Developmental Variance

Owner/Petitioner: Cedar Lake RE LLC, John Ryan Terpstra, 11131 Fairbanks Ct. Crown Point, IN 46307

Mr. Bunge advised the first order of New Business is a Petitioner requesting a Developmental Variance to have parking in the front yard setback, outdoor dining, an electronic message board sign, a total square footage of signage to be 302.14 square feet, and for the pylon sign to be within 10 feet of the Right of Way with setbacks to be determined by an approved Site Plan from the Plan Commission. Mr. Austgen stated legals are in order.

Mr. Ryan Terpstra, 11131 Fairbanks Ct., Crown Point, IN, commented we will be discussing five applications for a Variance from Developmental Standards. As a franchisee, we have our plans, the site approved, our development, building and everything surrounding it, approved through Culver's.

- Outdoor seating – is part of the design for Culver's. We pay for additional features for the outdoor area including safety for visiting guests. We request this Board grant the variance from Developmental Standards to allow for outdoor restaurant seating.
- Parking in the front yard setback – off street parking spaces may be located in any yard except the front yard or side yard adjoining the street. The established front yard setback is 50 feet. We would require at least 40 parking spaces per development and contained within the site. There are six within the easterly side yard as well as nine spaces on the south side yard. Mr. Kiepura asked if the angled parking on the east side would need to have one or two spots eliminated. Mr. Terpstra stated where the drive thru window is, there is a spot on the east side that would be removed which would reduce the parking spaces to 39. We request this Board grant a variance from Developmental Standards to allow for parking within the front yard 50-foot setback on the site.
- Total square footage of signage to be 302.14 square feet – on all four sides of the building. We request this Board grant a variance from Developmental Standards to allow for signage totaling 302.14 square feet at the site.
- Electronic Reader Board – the following signage shall be prohibited in all zoning districts namely signs which display flashing or intermittent lights or lights changing intensity or color except signs indicating time or weather conditions. We have specific guidelines within the operating standards when it comes to the electronic reader board. The square footage of all signage includes the branding around the building and the pylon messaging board. The sign on the building is the Culver's logo.
- Sign with 10-feet from the Right of Way – no portion of any sign shall include permanent or temporary sign shall be placed within 10-feet of a right-of-way or any street or highway located as to project into same. The monument pylon sign will be located at the Northwest corner of the property and it will not interfere with the walkway or the

sidewalk along 133rd Avenue. We request this Board grant a variance from Developmental Standards to allow for placement of our monument pylon sign within 10-feet of the front yard setback along 133rd Avenue.

Mr. Kiepura asked if they are mentioning color at this time. Mr. Terpstra stated there was a request from the Plan Commission that the signage be black with black surround and black poles for the parking signage. Culver's franchising designates the color scheme and branding and they are going to be white. We did not apply for this variance. We request this Board grant a variance from Developmental Standards to allow for the Electronic Reader Board.

Mr. Bunge asked if the sign regulations have been read as far as changing colors, shifting colors. Mr. Terpstra responded in the affirmative and there is no deviation from our practice. The Electronic Reader Board stays on overnight, but if there is a time restriction to have it completely off; we can abide by that. The variances for use of the Electronic Reader Board itself, any restrictions that the Town would like to place on the use of that Electronic Reader Board, we can make it work. Mr. Bunge commented there could be some conditions laid out in the approval of your ordinance that would stipulate those limitations.

Mr. Kiepura asked what is the occupancy in the restaurant. Ms. Abernathy commented 26 table tops with 86 seats. Mr. Kiepura stated there wouldn't be enough parking spaces based on the ordinance of two people per car. Discussion ensued. Mr. Terpstra asked if he can make an oral motion to amend the petition to include a request for a variance for Developmental Standards on parking spaces on the site. Mr. Austgen advised it can be connected to any of the five items that were presented and it can be appended.

Mr. Terpstra stated he will append to the parking lot setbacks with the 50-foot front yard setback that is designated by ordinance. This will append to that parking variance application of reduction of required parking spaces from the requisite two to one per guest down to a 39-space capacity for this site. This is based off of comments already made. We develop this site with traffic flow and we take the safety of our guests and team members seriously. Discussion ensued regarding parking at this site.

Mr. Kiepura asked if this site is a B-3. Ms. Abernathy commented it is a B-1 and the use is a B-1.

Mr. Austgen asked if they anticipate bus loads coming in from events at the high school. Mr. Terpstra commented the bus would have to park off site. Discussion ensued regarding oversized vehicle parking.

Mr. Bunge asked if there were any remonstrators for or against this Variance.

Ms. Abernathy commented there was an email from Mr. Mike Gelatka:

Thank you for sending the drawings. I don't have any complaints. My only concern, and it may not be an issue, is whether an 8'x13' sign on top of pole may block visibility of our dance studio sign. That being said, I will trust the Board will consider all issues & decide what is fair to both of our businesses. Thanks,
Mike Gelatka

Mr. Bunge closed the floor for public comment.

Ms. Abernathy stated all of our comments have been submitted to Mr. Oliphant for engineering review for the site plan, other than that, if there are any approvals given, we recommend it be contingent upon the site plan approval and the conclusion of the 133rd Corridor Moratorium.

Mr. Austgen advised all variances can be considered into one motion. There are the proposed Findings of Fact under the Indiana Law and Code.

Mr. Parker asked if the 133rd Corridor Moratorium affects this legally. Mr. Austgen commented this will be a Public Hearing item with the Plan Commission, so it is in process.

A motion was made by Mr. Burnham and seconded by Mr. Kiepora to approve the developmental variances to allow the Petitioner to have parking in the front yard setback, to have outdoor dining, an electric message board sign, a total square footage of signage for 302.14 square feet, for the pylon sign to be within 10 feet of the Right of Way with setback determined by an approved Site Plan, and to allow for a reduction in parking spaces for a total of 39 parking spots with the Findings of Fact contingent upon Site Approval and 133rd Corridor Moratorium being completed. Motion passed unanimously by roll-call vote:

Mr. Burnham Aye
Mr. Parker Aye
Mr. Kiepora Aye
Mr. Bunge Aye
Mr. Jackson Aye

2. 2023-04 Sarti – 9701 W 134th Place – Variance of Use

Owner: Lynn Sarti, 3122 North 600 East, Rolling Prairie, IN 46371

Petitioner: Morgan Stupeck, 9701 W 134th Place, Cedar Lake, IN 46303

Mr. Bunge advised the next order of New Business is Petitioner is requesting a Developmental Variance of Use to operate a hair salon in a R-T Zoning District.

Mr. Austgen stated legals are in order by way of publication and notice to ad joiners on this. There is an irregularity that should be considered on the record. This was a different type of petition in the notice as to what it should be. My recommendation is to waive the irregularity.

March 9, 2023

The notice was identified correctly from the ordinance, application, legal description and all of the notices to be given.

Ms. Morgan Stupeck, 9701 W. 134th Place, Cedar Lake, IN, stated she wants to run a hair salon out of her home. There would be one chair, one stylist, and by appointment only. I take one to two clients at a time. There would be a walkway to the back door so the client's enter at the back door into the salon. The hours of operation are no more than 5 days a week and earliest start would be 8 a.m. and closing at 9 p.m.

Mr. Bunge asked will there be plenty of parking. Ms. Stupeck responded in the affirmative.

Mr. Bunge asked if there were any remonstrators for or against this Variance of Use. Seeing none, Mr. Bunge closed the floor for public comment.

Ms. Abernathy commented this would be a favorable recommendation to the Town Council to allow Petitioner to open a hair salon in a R-T Zoning District.

Mr. Austgen advised this Variance of Use would be for this Petitioner only.

A motion was made by Mr. Kiepura and seconded by Mr. Jackson that we set a favorable recommendation to the Town Council to allow Petitioner to operate a hair salon in a R-T Zoning District from the hours of 8 am to 9 pm, a total of five days a week, with no Sundays, parking to be in driveway and no more than 2 customers at a time. This Variance will not follow ownership and stay with this Petitioner and waive the irregularities in publication and for the Findings of Facts. Motion passed unanimously by roll-call vote:

Mr. Burnham Aye

Mr. Parker Aye

Mr. Kiepura Aye

Mr. Bunge Aye

Mr. Jackson Aye

PUBLIC COMMENT: None was had.

ADJOURNMENT: Mr. Bunge adjourned the meeting at 8:00 p.m.

TOWN OF CEDAR LAKE BOARD OF ZONING APPEALS

Jeff Bunge, Chairman

John Kiepura, Vice Chairman

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: March 9, 2023 Minutes