



CEDAR LAKE BOARD OF ZONING APPEALS MINUTES
CEDAR LAKE TOWN HALL, 7408 CONSTITUTION AVENUE, CEDAR LAKE, INDIANA
April 13, 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, April 13, 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 March 9, 2023; a motion was made by Mr. Kiepura and seconded by Mr. Burnham to approve the same. Motion passed unanimously by roll-call vote:

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

New Business:

1. 2023-06 Barcewicz – 12927 Webster Street – Developmental Variance

Owner/Petitioner: Bartlomiej & Danielle Barcewicz

Vicinity: 12927 Webster Street, Cedar Lake, IN 46303

Mr. Bunge advised the first order of New Business is a Petitioner is requesting a Developmental Variance to construct a new residential home with a 15-foot setback on a corner lot. Mr. Austgen stated the legals are in order for Public Hearing.

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Mr. Bartlomiej Barcewicz, 12927 Webster Street, stated we would like to build a home, we are on a corner lot and we need 15 feet which backs up to Webster Street and is an abandoned street.

Mr. Parker asked what is the setback. Ms. Abernathy stated 30-feet for any road. Mr. Barcewicz we are only requesting 15-foot setback on Webster Street and the lot square footage is 100-feet by 225-feet.

Mr. Kiepura asked why does the house have to go there because there is a big trench there. Discussion ensued regarding it is the improved right-of-way and this is where the setback is being requested from. Mr. Parker asked will Webster Street ever be travelled on or is it landlocked. Ms. Abernathy commented the people in that area drive on the other roads.

Mr. Jackson asked if there is a sewer line going through. Mr. Burnham responded in the affirmative and discussion ensued regarding the sewer line and the neighbor's home. Ms. Abernathy commented if there had been an adjacent property facing off of Webster, there is language in the Ordinance that would have allowed for a variance up to 10 feet but they do not have an adjacent property next to their property with the less setback of the 30-feet and this is why they need a variance. Ms. Abernathy stated they are meeting all of the other requirements needed.

Mr. Kiepura asked how far is the existing house off of the street. Mr. Barcewicz responded 15-feet and said they are keeping the house.

Mr. Austgen commented the two primary uses are residential. There are two houses on one zoning lot even if they change it for tax purposes. Discussion ensued regarding the homes on the subdivision.

Mr. Bunge asked what is the plan on driving back and having access to the existing house without using Webster Street. Mr. Barcewicz commented the driveway comes up to the top of the hill and 129th Place is at the bottom of the hill and the house will be going further to the garage and there will be a driveway to be able to drive around. Discussion ensued.

Mr. Kiepura asked if they are going to split the property and how big is the piece of property. Ms. Abernathy responded the property is 22,500 square feet.

Mr. Bunge asked if there are any remonstrators for this variance. Mr. Christopher Renkowiecki, 12922 Knight Street, is ok with the house being built there. Discussion ensued regarding Webster Street and it not being improved.

Ms. Abernathy stated the Findings of Fact was submitted and there are no problems.

Mr. Bunge closed the public portion of the hearing.

Ms. Abernathy stated there may be a potential change of address for the front building and Chief Bill Fisher's suggestion is 7405 W. 129th Place for the new property. Mr. Austgen asked which part of the parcel is being developed by the way of the proposal, is it street side or the rear. Mr. Barcewicz commented on the side of 129th Place. Mr. Austgen commented if it were two houses

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that were front and back on a platted lot and would become two, then access on the frontage would be required. Mr. Parker stated they meet the requirement for both houses.

Mr. Austgen stated the second house fronts 129th so it has driveway access and is permitted with the building. Mr. Parker asked can the address be corrected at the permit. Mr. Austgen responded in the affirmative. Discussion ensued.

Mr. Kiepura asked if the overlay that is there and the house that is going to be built is on 129th Place and the other house is directly behind it, how does it front on 129th. Mr. Barcewicz commented it fronts on Webster. Mr. Austgen stated this is platted on an unimproved street and will be permitted in a public right of way for access. Mr. Parker commented it is legal non-conforming, pre-existing. Mr. Austgen commented if the houses were stacked from the public way and there was a structure to the rear of the property, it would depend on the front property to get access to public way and that would be a problem where another variance would be required. Discussion ensued.

A motion was made by Mr. Parker to approve the Developmental Variance to include the Findings of Fact and seconded by Mr. Burnham. Motion passed unanimously by roll-call vote:

Mr. Burnham Aye

Mr. Parker Aye

Mr. Jackson Aye

Mr. Kiepura Aye

Mr. Bunge Aye

2. 2023-07 McGuffey – 10118 W. 127th Place – Developmental Variance

Owner/Petitioner: Dannielle McGuffey, 10118 W. 127th Place, Cedar Lake, IN 46303

Vicinity: 10118 W. 127th Place, Cedar Lake, IN 46303

Mr. Bunge advised the next order of New Business is a Petitioner is requesting a Developmental Variance to construct a pool approximately 6 feet from the house. Mr. Austgen stated the legals are in order.

Ms. Dannielle McGuffey, 10118 W. 127th Place, stated the property at the back of our house to the back of the property is 44 feet. We have a two-foot overhang on the back of our house with a 12-foot easement off of the back and do not have enough space to construct a pool. We would like 8 feet from the back of the house on the first level and 6 feet from the secondary level. This will meet all of the other requirements of 10 feet off of the side and 12 feet off of the back.

Mr. Bunge asked what is the diameter of the pool. Ms. McGuffey responded 24-feet.

Mr. Jackson asked if the 6-feet was coming off of the overhang. Ms. McGuffey responded in the affirmative and will be 8-feet off of the back of the house. There have been other homes in the subdivision that needed a developmental variance to put a pool in. We will be taking the deck down and the playset will be moved over.

Mr. Parker asked were all of the homes with pools permitted or were the pools just put in. Ms. Abernathy commented they would have gone through the same process of obtaining a variance. For example, Lot 29 in Monestary Woods the pool is close to the house. If something did not get a permit, the inspectors have been finding items that were put up without permits and notices are being posted regarding no building permit received.

Mr. Burnham asked if the overhang is coming from the second story. It was responded in the affirmative. Mr. Kiepura commented there is a safety factor and we wouldn't want someone jumping off the roof into the pool. Discussion ensued regarding other homes in the subdivision that were granted variances.

Mr. Bunge asked what if they moved the location to the east. Ms. McGuffey stated we attempted that but it is 44-feet from the home regardless of where the pool would be at on the property. Ms. Abernathy stated the length from the house to the driveway is 31-feet, the house is 40.55 feet and is calculated the whole length of the lot minus the 12-foot drainage with the 24-foot pool would be 7.5-feet from the overhang. It is a greater distance than advertised for by a foot and a half. Discussion ensued regarding the Ordinance. Mr. Parker asked does it meet the Findings of Fact. It was responded in the affirmative.

Mr. Bunge asked if there were any remonstrators for or against this variance; seeing none, public portion of this hearing is closed.

Discussion ensued regarding allowing Petitioner to put in the pool based off the variance requested. Mr. Bunge commented if we put this to a vote and it is declined, then you have to wait a year with a different plan than what was originally asked for. Discussion ensued.

Mr. Burnham asked if she went from a 24-foot round pool to a 21-foot round pool will that work. It was responded in the affirmative and would give 12.5 feet between the back of the house and the pool.

A motion was made by Mr. Parker to approve the Developmental Variance including the Findings of Fact as presented and seconded by Mr. Jackson. Motion passed by roll-call vote:

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

3. 2023-08 Takacs – 10007 W 145th Ave. – Developmental Variance

Owner: Dale Takacs, 10007 W 145th Ave, Cedar Lake, IN 46303

Petitioner: Dale & Allison Takacs, 10007 W 145th Ave, Cedar Lake, IN 46303

Mr. Bunge advised the next order of New Business is Petitioner is requesting a Developmental Variance to construct a 6-foot privacy fence on the property line of a corner lot served by sidewalks. Mr. Austgen commented legals are in order.

Mr. Dale and Mrs. Allison Takacs, 10007 W. 145th Avenue, stated we would like to put a 6-foot privacy fence up in our backyard and also on the side back yard. This is on a corner lot. Discussion ensued regarding how far the fence can go but it cannot go past the house. Ms. Abernathy stated if they want a 6-foot privacy fence, it needs to be a 30-foot setback following front yard setback and a corner lot has 30-feet on both. Their PUD arranged for a 25-foot building setback line, they can go to that and have a 6-foot privacy fence. If they want to go 4-foot privacy fence or a 6-foot open fence it can go 20-feet back to the right-of-way line or property line. It would have to be 20 feet in and that would have to be 50% open unless a variance is obtained for a 6-foot privacy fence.

Mr. Kiepura commented the house is 26-feet off of Garden Way and the Ordinance states you have to be 25-feet off of Garden Way. Ms. Abernathy commented it has to meet the front building line if they want to take it further up to the 20 feet which is allowable by Ordinance, then it would have to be either 50% open or a 4-foot-high privacy fence. They are requesting to take it to the property line right along the sidewalk which is not allowable by Ordinance or front yards, 4 foot or 6 foot no matter what style fence it is. Discussion ensued. Ms. Abernathy stated if they were to reduce it to the 20-foot allowable by Ordinance and still request for it to be a 6-foot privacy and this can be requested as a variance.

Mr. Burnham asked if there was anyone else in Rose Garden that have a fence close to the road. Ms. Takacs commented we are the only corner lot and everything else is curbed. Discussion ensued regarding fences going past a home and being approved.

Mr. Bunge commented looking down Garden Way and taking in the panoramic street scape, the fence is protruding out into the vista looking down the street and how much is it distracting and following the building lines going up and down the street is not appealing. Ms. Takacs commented if we go 6 feet off of our house, we will be doing 50% open and then doing the rest of the privacy fence and that would be less appealing because with the neighbors' fences, we would have three different fences in one area. Discussion ensued.

Mr. Austgen stated this should be deferred and because of the safety circumstances that are on record now. The review of this Board and Building staff could look at all of the legalities of setbacks, size, height, location and find the graphs. It is an investment and looking for enhancement of safety for the children and make something work.

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Mr. Parker asked if they can do a deferral and look at other avenues. Ms. Takacs responded in the affirmative. Discussion ensued.

Mr. Austgen discussed the Rose Garden PUD Ordinances and Subdivision Approvals, including elements such as architectural standards. Lengthy discussion ensued regarding putting in a 6-foot fence with 20-feet setback off of the road as long as a variance is granted. Mr. Burnham stated the fence will come off of the corner of the house from 6-feet and back to the property line.

A motion was made by Mr. Burnham and seconded by Mr. Parker to approve the variance request of a 6-foot privacy fence, 20-feet from the property line along Garden Way on a corner lot served by sidewalks, including the Findings of Fact and originating from Southeast corner of the house. Motion passed by roll-call vote:

Mr. Burnham Aye

Mr. Parker Aye

Mr. Jackson Aye

Mr. Kiepura Aye

Mr. Bunge Nay

PUBLIC COMMENT: None was had.

ADJOURNMENT: Mr. Bunge adjourned the meeting at 7:44 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: April 13, 2023 Minutes