



CEDAR LAKE BOARD OF ZONING APPEALS MINUTES
CEDAR LAKE TOWN HALL, 7408 CONSTITUTION AVENUE, CEDAR LAKE, INDIANA
November 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, November 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; and Cheryl Hajduk, Recording Secretary. **Absent:** none

Approval of Minutes:

Mr. Bunge entertained a motion for the Minutes of September 14, 2023 and October 12, 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. Jackson	Aye
Mr. Kiepura	Aye
Mr. Bunge	Aye

Old Business:

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

Mr. Bunge stated the first order of old business is an amended request to allow the Petitioner to construct an addition onto the house with a front yard setback of 5 feet, a side yard setback of 4 feet, and overall lot coverage of 30 percent.

Mr. Robert Burrink, 14335 Truman Street, commented he met with Mr. Tim Kubiak and they discussed the water flow issue from the street. It was recommended to raise the garage floor 12-inches and to remove a piece from the southside of the garage which sits out and goes beyond the garage. This piece goes back in to the whole rest of the house and continues with the addition to the street side and the northside. To make the northside completely equal to allow getting cars in the garage, the space on the southside of the garage will have to be 11.1-feet. We do not need to do anything with the drains or sewers.

Mr. Parker commented there needs to be a catch basin and something will need to be done with the drains and sewers.

Mr. Burrink stated a couple of trees and mounds of dirt need removal and then the ground can be graded, so when the water comes down the road, it will naturally flow towards the lake.

Mr. Burrink commented he has a plat of survey and the bottom shows demolishing and removing a 15.5-foot portion of the garage to create a parking spot off of the street. The entire ground floor of the home will be raised 12-inches to allow for modifications with the plumbing. The second floor will need to be raised and the architect stated it is at 32-feet, a request of 33-feet would be needed. There is a cantilever sticking out the back of the house at 4-feet, and the square footage of the home is based on 1,876 square feet at exactly 30 percent. We would like the house to be equal to where the cantilever sticks out, so there will be a straight east wall on the lake side and the new calculation is 2,181 square feet or 34.8 percent which is still under from the original request. Discussion ensued.

Mr. Parker commented it will be the same depth as the cantilever is now, but it will go to the ground. Mr. Burrink stated he will be adding the foot to the bottom floor of stone concrete. The back of the house will have the same rendering except the cantilever will not be sticking out in the upper left-hand corner.

Mr. Burnham asked are they going to jack up the entire house for another foot of elevation. Mr. Burrink responded we will go around the bottom and add footing or solid concrete, possibly cinderblock filled.

Mr. Jackson asked how far is the garage door going to be from the street. Mr. Burrink commented from the front of the garage to where the 8-foot measurement was taken, which is the property line and everyone's front yards are out on the street, then it curves back toward my property. From that line to the actual paving of the street is about 11-feet.

Mr. Bunge asked are we looking for a 6-foot front yard setback instead of 5-feet. Mr. Burrink commented he would like a 6-foot addition off of the front of the house. According to the Plat of Survey, it shows a dimension of 14-feet from the front of the house.

Ms. Abernathy stated when Mr. Burrink first submitted his petition, he had a Survey Location Report and those can be off a few feet in measurements. It was requested to do a stake survey because it got brought up that it is closer to 14-feet. When it was advertised, it was advertised based off of the Survey Location Report of 14-feet with the increase of 6-feet to the addition, which is why the 5-feet is on the advertisement. It was also requested to get a stake survey to see how far back the house is from the property, which is the 8.03-feet, so if the 6-foot addition to the front were granted, they would be 2-feet from the edge of the street. Discussion ensued.

Mr. Parker asked if those are dedicated streets in this area. Mr. Austgen responded Truman Street is. Discussion ensued regarding curb and gutter.

Discussion ensued regarding how many feet in total are being requested for the house because of the floor being raised.

Mr. Parker commented not being able to park in the garage or in the driveway is a hardship.

Mr. Austgen commented given where this property is and its location to the public way, the impediment to this favorable decision would be public safety access, i.e., garbage truck, snow plow. This request is amended now and there could be an issue with public safety and access. Discussion ensued.

Ms. Abernathy stated she spoke with the Public Works Superintendent, Fire Chief and Police Chief and they had concerns of public safety risk. Discussion ensued.

Mr. Kiepura commented they are not creating any bigger unsafe factor than what is there now. Mr. Austgen asked is one of the setbacks on the front yard coming closer to the road. Mr. Jackson responded in the affirmative. Mr. Austgen commented this should be talked about and he didn't know our staff had looked at it like that and it makes sense. Mr. Burrink commented his vehicles are encroaching the street by 6-feet right now.

Mr. Bunge asked if the garage was an addition to this house. Mr. Burrink responded in the affirmative. Mr. Bunge commented the previous owner created the hardship building the garage the way they did. Discussion ensued.

Further discussion ensued regarding road reconstruction in this area.

Mr. Kiepura asked does the parking area by the apartments come up to the property line. Mr. Burrink commented they resurfaced that area and there is only a little room where the property line is and where the asphalt begins. Mr. Kiepura asked is it lower or same height. Mr. Burrink stated that area from the street is the high mounted area with the big dead trees. Mr. Kubiak

proposed we clear those trees out, grade the dirt down so the water has a place to go and then the water will go across the apron.

Mr. Kiepura commented maybe there can be a gate with a lock for the Fire Department like there is in the Havenwood Subdivision. If there is an emergency, they can open the gate and not have to turn around and just have to pull through the apartment building's parking lot and then out. Mr. Parker asked is the fence the apartment building's fence. Mr. Burrink responded it is probably the apartment building's fence, but he has a cedar fence from past his garage all the way out to the lake and he was going to finish with cedar material all the way to across the street.

Mr. Austgen asked does this road extend because it looks unpassable. Mr. Parker commented the building that was converted to an apartment building; this road dead ends right into the edge of that property line. Mr. Austgen commented if there was a vacation of a portion of that public way, that was the width of the garage and that would take away some of the Variance requests. Mr. Parker commented maybe this affects the property across the street and should be looked at.

Mr. Austgen stated we are looking for a solution and not giving away land, and not to impact public right-of-way to try and make this work. Discussion ensued.

Mr. Parker asked if this was to get the street reconstructed with curb and gutter, is there room at the north end of the property to put a catch basin if that was necessary to do the street in the future. Mr. Burrink commented put a structure by the mailbox to gather what is coming down and turn it down the southside of the property and continue it with an 8-inch to another structure at the north end of that street, which would be before the swale that we would like to create by removing the dead trees.

Mr. Parker stated if we did a vacation and it was contingent on some future time for that structure to be put in and add that to the infrastructure that protects the water that goes into the lake. Mr. Austgen recommended we would need a Vacation Ordinance. Mr. Parker commented he likes the idea of that just for planning and this would guarantee an easement and when the time comes to put in the infrastructure to keep debris from going into the lake. Discussion ensued regarding water flow in this area.

Mr. Jackson asked can the garage be moved toward the lake since there is more property there. Mr. Burrink commented the master bedroom is above the garage and we would like to connect the two rooms that are above the garage.

Mr. Bunge asked if there were any remonstrators for or against this Variance. Seeing none; public comment is closed.

Ms. Abernathy commented when the lot coverage was calculated only Lots 1 and 2 were added and it is not including the additional square footage going out to the lake. The square footage is

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10, 228 feet. The proposed changes and the shed at the back of the property, would only be 23.6 percent lot coverage.

A motion was made by Mr. Kiepura to defer this item to the January 2024 meeting and seconded by Mr. Burnham. Motion passed by unanimously roll-call vote:

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

**2. 2023-11 Olson Group Network LLC – Developmental Variance – 13920 Butternut Street
Owner/Petitioner: Olson Group Network LLC, 2701 W. 45th Avenue, Gary, IN 46408
Vicinity: 13920 Butternut Street, Cedar Lake, IN 46303**

Mr. Bunge stated that the next order of old business is a Petition request for a Developmental Variance to allow the construction of a new residential house on an existing lot with a lot width of 70 feet and lot size of 5,971 square feet to be 11.86 feet from the front property line, to be less than 30 feet from the rear property line, a reduction in the minimum garage size to approximately 226 square feet and a reduction in total house square footage to 1,472 square feet.

Ms. Abernathy commented no one is present. There is an updated Site Plan and it shows the rear yard setback they are looking for.

A motion was made by Mr. Parker to defer this item to the December 14, 2023 meeting 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

New Business:

**1. 2023-34 Ariyo – Developmental Variance – 14425 Hibiscus Way
Owner/Petitioner: Oluwatosin Ariyo, 14425 Hibiscus Way, Cedar Lake, IN 46303
Vicinity: 14425 Hibiscus Way, Cedar Lake, IN 46303**

Mr. Bunge stated that the first order of new business is a Petition requesting a Developmental Variance to allow the Petitioner to construct a 6-foot privacy fence on a corner lot served by sidewalks to be 20 feet from the property line. Mr. Austgen advised legals are in order.

Ms. Oluwatosin Ariyo, 14425 Hibiscus Way, stated she wants to put up a 6-foot privacy fence on her corner lot 20-feet from the property line. She stated she wants to put up the fence because she has children and a dog.

Mr. Bunge asked this fence would be along 144th Street. Ms. Ariyo responded in the affirmative.

Mr. Bunge commented there are six houses along Hibiscus Way. Mr. Kiepura commented this is in Rose Garden Subdivision.

Mr. Kiepura asked if there was approval from the HOA. Ms. Ariyo responded in the affirmative.

Mr. Jackson asked will the fence be a white vinyl. Ms. Ariyo responded in the affirmative.

Mr. Burnham asked is the fence going to be 20-feet off of the road. Ms. Abernathy responded in the affirmative.

Mr. Bunge asked why can't the fence stay within the Ordinance guidelines. Ms. Ariyo stated she wants a privacy because they are right by the road and her children play in the yard.

Mr. Bunge asked if there were any remonstrators for or against this Variance. Seeing none; public comment is closed.

Ms. Abernathy commented this is similar to the other corner lot that we approved earlier this year for a 6-foot privacy fence on a corner lot. They are maintaining vision triangles; they are staying off the back of the house and we do not see any impact with the pedestrians or vehicle traffic. There is a 20-foot public utility and drainage easement and that is the line they are following. There is a 12-foot utility easement on the back side of the property and 6-feet along the southern property line. We do require everyone that obtains a fence permit that is going over an easement to sign an Easement Waiver that they are aware they are crossing over the easement which is allowed by Ordinance. If there would be any work needed to be done at the easement, the owner would have to pay to remove the fence and replace.

A motion was made by Mr. Burnham for a Developmental Variance to allow the Petitioner to construct a 6-foot privacy fence on a corner lot served by sidewalks to be 20-feet from the property line per the Findings of Fact and seconded by Mr. Parker. Motion passed by roll-call vote 3-ayes, to 2-nays:

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

2. 2023-35 Ranieri – Developmental Variance – 7528 W. 128th Court

Owner/Petitioner: Luigi & Camelina Ranieri, 915 Winston Drive, Melrose Park, IL 60160

Vicinity: 7528 W. 128th Court, Cedar Lake, IN 46303

Mr. Bunge stated that the next order of business is a petition requesting a Developmental Variance to allow the Petitioner to construct a 32-foot by 24-foot garage on a lot without a residential structure. Mr. Austgen advised legals are in order.

Mr. Luigi Ranieri, 7528 W. 128th Lane, commented he would like to put a garage on the corner of the back corner of the property prior to building a home. He would like to store items in a garage instead of on the property.

Mr. Parker commented a home needs to be started within a year after the garage is built. Ms. Abernathy stated the Ordinance states you cannot have an accessory structure without a primary structure first being on that lot. This lot does not have a primary structure, so he is asking to build the garage first and then within a year, he would start building the house.

Mr. Parker asked what is the guarantee that he builds the house if we grant the Variance to build the garage first. Mr. Austgen stated we would tag him at one year and stop everything that is happening on that property. There isn't any surety and a performance bond. This is a difficult enforcement.

Mr. Bunge asked can we obtain a surety bond. Mr. Austgen stated we could, but if the time period expires, will the Town that has been given approval to build a house, and build the house on that parcel; probably not. There is impracticality of surety in this sense.

Mr. Parker asked could demolition of the garage be required if the house doesn't get built. Mr. Austgen stated there could be an issue of inverse condemnation and taking. The use of the property might be the biggest problem and there would be fines and penalties under the Zoning Ordinance. Discussion ensued.

Mr. Kiepura asked if there are plans for the house and garage. Mr. Ranieri we are looking at blueprints. Mr. Kiepura commented he would like to see house plans and that will show that a house will be built on that property. Discussion ensued.

Mr. Austgen stated we can do a Use Commitment that would be recorded against the property and give the Town some enforcement authority.

Discussion ensued regarding the size garage that is going to be built.

Mr. Parker stated it will be required to have a permit pulled and a plan presented within one year of the completion of the garage if the garage gets built. Mr. Austgen stated failure to fulfill the terms of the approval that is given is violation of the Zoning Ordinance. There would be a zoning code violation enforcement with fines and penalties. Discussion ensued.

Ms. Abernathy asked if a fine is included in the approval, would it follow the regulation portion of the Zoning Ordinance that says “everyday of non-compliance is an additional fine” and would this be accrued every day. Mr. Austgen commented they can negotiate because this situation is unable to be calculated. Discussion ensued.

Mr. Bunge commented whatever agreement is made, a house will need to be planned and started within one year of completion of the garage.

Mr. Parker commented the day the foundation is in for the house, it would be practical to have an electrical meter in the garage at that time, but that would be when the permit is pulled for the residence.

Mr. Parker stated we need a better submittal and we need to add contingencies to this, but this needs to be deferred for a month for this to be completed. The contingencies can be worked on at the next BZA meeting.

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

Mr. Jerry Wilkening, 10826 W. 131st. Avenue, asked is this going to be a garage for the home, because if the home is built with the garage; then there is an accessory building that has no permission. Mr. Parker asked is the house that is going to be built going to have an attached garage. Mr. Ranieri responded in the affirmative.

Mr. Parker commented there cannot be two accessory structures. Ms. Abernathy stated you can have a maximum of two accessory structures and one principal structure. Mr. Parker commented the attached garage would be an accessory structure and it will be automatically over the square footage of what is allowed once the garage exists.

Ms. Abernathy commented the lot size is 11,875 square feet and is allowed up to 800 square foot accessory structure size, if the structure is 30 by 24 square feet, it is 720 square feet.

Mr. Parker commented per the Ordinance, as long as the garage is under that square footage, he would not be able to put up another accessory structure. Ms. Abernathy stated he would only have 80 square feet to build an additional accessory structure. Discussion ensued regarding lot coverage.

Mr. Terry Broadhurst, 14513 Morse Street, commented a lot of time was spent discussing this item and when solutions are being figured out that create their own hardship, it costs the taxpayers dollars because legal was involved in this conversation and for some reason the new rule book is not being followed.

Mr. Kiepura stated there will be stipulations put in as we do with any Variance request that is granted. Part of this will be the terminology from garage to accessory building until the house is

built with the attached garage. A clean job site would be required and this doesn't break the rules; it is part of the criteria.

A motion was made by Mr. Kiepura to defer this Developmental Variance to the December 14, 2023 meeting and seconded by Mr. Parker. Motion passed unanimously by roll-call vote:

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

3. 2023-36 Casa Bush LLC – Developmental Variance – 8602 W. 131st Avenue
Owner/Petitioner: Casa Bush LLC, 7310 Grand Avenue, Hammond, IN 46303
Vicinity: 8602 W. 131st Avenue, Cedar Lake, IN 46303

Mr. Bunge stated that the next order of business is a petition requesting a Developmental Variance to allow the Petitioner to install a 20-foot by 20-foot garage to be located approximately 2.5 feet from the east property line, 1-foot from the rear yard property line, 2.5 feet from the deck and 7.5 feet from the existing house on a legacy lot. Mr. Austgen advised we do not have legals for this.

Ms. Abernathy commented this item needs to be deferred. The Petitioner was contacted because I did not receive any Proofs of Publication. They misunderstood and thought the publication was done after the Variance. They will need to advertise before the December meeting.

A motion was made by Mr. Parker to defer this item to the December 14, 2023 meeting 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

PUBLIC COMMENT:

Mr. Terry Broadhurst, 14513 Morse Street, apologized to the Board for his outburst.

Mr. Broadhurst commented there is a lot of passion behind my words and thought. There are repercussions of fines and penalties, but the law states once an owner gets in, you cannot do anything about it. They can be fined and the property can be lien, but what does that do for

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the rules. There are rules in place and there was a lot of time spent discussing building a garage before a house. Discussion ensued regarding building permits.

Ms. Abernathy commented building permits can only be extended for one year, after that, they would have to apply for a brand-new permit. Mr. Parker commented this would be expensive to keep re-applying for a permit.

ADJOURNMENT: Mr. Bunge adjourned the meeting at 8:27 p.m.

TOWN OF CEDAR LAKE BOARD OF ZONING APPEALS

Jeff Bunge, Chairman

John Kiepora, Vice Chairman

Eric Burnham

Greg Parker

Ray Jackson

ATTEST:

Cheryl Hajduk, Recording Secretary

These Minutes 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.

Minutes of November 9, 2023