



CEDAR LAKE BOARD OF ZONING APPEALS MINUTES
CEDAR LAKE TOWN HALL, 7408 CONSTITUTION AVENUE, CEDAR LAKE, INDIANA
January 11, 2024 at 6:30 pm

CALL TO ORDER:

Mr. Kiepura called the Board of Zoning Appeals meeting to order at 6:30 pm, on Thursday, January 11, 2024 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; James Hunley; Ray Jackson; John Kiepura. A quorum was obtained. **Also Present:** David Austgen, Town Attorney; Ashley Abernathy, Planning Director; and Cheryl Hajduk, Recording Secretary. **Absent:** None

Appointment of Officers:

A motion was made by Mr. Hunley and seconded by Mr. Jackson to appoint John Kiepura as Chairperson. Motion passed unanimously by roll-call vote:

Mr. Burnham	Aye
Mr. Hunley	Aye
Mr. Jackson	Aye
Mr. Kiepura	Aye

A motion was made by Mr. Hunley and seconded by Mr. Jackson to appoint Eric Burnham as Vice Chairperson. Motion passed unanimously by roll-call vote:

Mr. Burnham	Aye
Mr. Hunley	Aye
Mr. Jackson	Aye
Mr. Kiepura	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. Kiepura stated the first order of old business is for a Petition for a Developmental Variance 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 an overall height of 33 feet.

Mr. Robert Burrink, 14335 Truman Street, commented there were supposed to be discussions with staff. Ms. Abernathy commented Mr. Burrink met with Mr. Kubiak in November 2023 and after that meeting, the updated plan was sent to the Fire Chief, Police Chief and the Public Works Superintendent, because all three of them had concerns about encroaching closer to the front yard setback and the Fire Chief responded he was in favor of the amended plan with one off street parking and the cars would be in the garage.

Mr. Kiepura asked was there anything resolved about the drainage. Ms. Abernathy stated they were going to raise the garage floor up to allow for the water to not flow into the garage and there was discussion if there is room for stormwater detention in the future whenever we do a reconstruction in that area to put in stormwater services and infrastructure lines.

Mr. Burnham asked will the water flow to the lake. Mr. Burrink commented there will be a certain amount of flow from the southside of the house and we discussed the idea of a potential structure on the north end of the dead-end street that at the top end of that flow up to the lake.

Mr. Burnham asked was everything resolved. Ms. Abernathy commented there were no additional comments after the new plan was discussed. Mr. Burnham commented parking is limited and parking was added to the southside of the house and limited space with the new part of the garage is going to go off to the road and pitch the water toward the street. Mr. Burrink commented he thought the plan was in the hands of the Committee as of November 2023.

Mr. Austgen commented the burden never shifts to the Board of Zoning Appeals for the Petitioner's request. The burden is always the Petitioner's and always the responsibility of the Petitioner. The dialogue you're entitled to have, but there is not burden shift here. Mr. Burrink stated there hasn't been proper feedback from the Town. Discussion ensued.

Mr. Kiepura commented he wants something saying this will correct the problem and not create a worse problem of what is there now. Discussion ensued in length of correcting the problem and the setbacks.

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

Mr. Jackson commented he would have liked to see something in writing from Mr. Kubiak regarding the new plan of raising the garage floor to get rid of the flooding problem. Ms. Abernathy stated she has the verbiage outlined in the staff report.

Mr. Burnham motioned for the amended request.

Mr. Burrink asked are we talking about the 8-foot mark. Ms. Abernathy commented it was approved for 5-feet from the road and it is the red property line. Mr. Burrink commented this is only allowing me 3-feet, because this was before the survey was painted on the ground.

Mr. Burrink asked can he have a two-foot setback so he can grow the house 5-feet. Mr. Burnham stated we are granting what you are asked for, but if you want to cancel this, you will have to go back and do a new Petition.

Mr. Burrink commented the amended request was not about the streetside, it was thought it was about the elevation and the rear of the home. Mr. Kiepura commented the motion was made to approve was

for the setbacks, elevation and side yard of 4-feet. Ms. Abernathy stated the original request was to construct the addition onto the 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%. The lot coverage came off because we found out they only calculated the front lots but not the rest of the property going to the lake and they do not need the lot coverage anymore. Discussion ensued.

Mr. Burrink stated the original Petition was to add 6-feet on to the front of the home. Ms. Abernathy stated the addition wasn't what the advertisement was for. The advertisement was for reduction in front yard setback which is what our Ordinance calls for, which is 30-feet. Mr. Burrink commented this was based on a piece of paper that you show there and when the actual survey was done on the ground, it didn't represent what was on the paper. It was a lot closer to the house.

Mr. Austgen stated this needs to be re-advertised.

Mr. Burnham retracted his motion. Mr. Burrink requested to withdraw his Petition. Withdrawal was accepted.

2. 2023-36 Casa Bush LLC – Developmental Variance – 8602 W. 131st Avenue
Owner/Petitioner: Casa Bush LLC, 7310 Grand Avenue, Hammond, IN 46323
Vicinity: 8602 W. 131st Avenue, Cedar Lake, IN 46303

Mr. Kiepura 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. Michael Maseo, 7130 Grand Avenue, Hammond, IN, commented there isn't anything new to report.

Mr. Kiepura asked if there were any remonstrators for or against this Petition.

Ms. Debra Nelson, 8605 W. 131st Avenue, commented this request is close to a neighboring home with that property line, because the neighboring house is about 3-feet and is oversized for that request. It is a 30-foot-wide garage and the neighbor's house is approximately 4-feet off of the property line. That is approximately 6-feet between that garage and the neighboring home. It is close to being 2-feet off of a property line.

Mr. Kiepura closed public comment.

Mr. Maseo commented there is a shed on the property and the shed is closer to the adjacent property to the East than the garage would be. Discussion ensued regarding the shed.

Mr. Kiepura commented when the garage is placed to the house that is East, how far off the property line is the neighbor. Mr. Maseo responded 2-feet. There will be four and a half feet from the fence. We are trying to make a 20-foot garage for two vehicles because it is a five-bedroom home.

Mr. Kiepura stated if this Variance is granted, there is no difficulty or hardship. Mr. Maseo commented there is only a driveway.

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Mr. Kiepura asked what is the coverage with the garage. Ms. Abernathy commented this is a legacy lot and is under 50 percent allowable.

Mr. Jackson asked what is the square footage of the house. Mr. Maseo commented 2,800 square feet.

Mr. Burnham asked with the existing wood porch, there will only be two and a half feet in between the wood porch and the new garage. Mr. Maseo commented there will be a walk way through there.

Ms. Abernathy discussed the legacy lot overlay, section of the Ordinance and allowances for rebuilding non-conforming structures. We determined it did increase the non-conformity because it was not a like for like structure, so if he did a 10 by 12 shed and the same exact location of the 10 by 12 shed, he would not need to be here for a Variance. Because the shed is closer to the property line to how it is angled to a 20 by 20 garage, it is increasing the non-conforming and requires a Variance.

Mr. Burnham asked how much distance is from the West of this house to the property line to the house that is already there. Mr. Maseo responded he wasn't sure, but there is a good gap. Ms. Abernathy commented about 9-feet. Discussion ensued.

A motion was made by Mr. Burnham to approve the 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 per the Findings of Fact and seconded by Mr. Hunley. Motion tied at 2-Ayes to 2-Nays by roll call vote:

Mr. Burnham	Aye
Mr. Hunley	Aye
Mr. Jackson	Nay
Mr. Kiepura	Nay

3. 2023-37 Cedar Lake Storage – Variance of Use – 9019 W 133rd Ave.

Owner: Cedar Lake Storage LLC, 9019 W 133rd Avenue, Cedar Lake, IN 46303

Petitioner: Chris Porter, 405 N. Lafayette Street, Griffith, IN 46319

Vicinity: 9019 W. 133rd Avenue, Cedar Lake, IN 46303

Mr. Kiepura stated that the next order of business is a Variance of Use to allow the Petitioner to amend the existing Special Use Variance for the indoor/outdoor storage at Cedar Lake Storage from an M-1 Zoning Classification to a B-2 Zoning Classification.

Mr. Kiepura stated the Petitioner withdrew this item.

New Business:

1. 2023-38 Price Point Builders – Development Variance – 12819 Cline Ave.

Owner: Price Point Builders, C/O Vis Law, LLC, 12632 Wicker Avenue, Cedar Lake, IN 46303

Petitioner: Nathan Vis, Vis Law, LLC, 12632 Wicker Avenue, Cedar Lake, IN 46303

Vicinity: 12819 Cline Avenue, Cedar Lake, IN 46303

Mr. Kiepura stated that the first order of new business is to allow the Petitioner a reduction in building setback line on Lot 2 from 80 feet to 68.5 feet. Mr. Austgen advised the legals are in order.

Mr. Nathan Vis, Vis Law, 12632 Wicker Avenue, commented we would like to withdraw this Petition. It is the understanding at the Plan Commission there are concerns that need to be resolved.

Mr. Kiepura stated the Petitioner has asked to withdraw this Petition and is granted.

2. 2024-01 Porter – Variance of Use & Developmental Variance – 6425 W. 141st Ave.
Owner: Linsey Porter, 6428 W. 141st Ave, Cedar Lake, IN 46303
Petitioner: Nathan Vis, Vis Law, LLC, 12632 Wicker Avenue, Cedar Lake, IN 46303
Vicinity: 6425 W 141st Ave, Cedar Lake, IN 46303

Mr. Kiepura stated the next order of new business is a Variance of Use to allow the Petitioner to maintain chickens, ducks, and pigs in an R-2 Zoning District on a parcel of land approximately 6.18 acres. Mr. Austgen advised legals are in order.

Mr. Nathan Vis, Vis Law, 12632 Wicker Avenue, commented on behalf of my client Linsey Porter, stated they would like to make significant improvements to the property. They would like to grow their own food as one of their children has a food allergy and they would like to raise a few chickens, ducks and pigs on this property. We submitted the application that outlines the Use Variance for review. Discussion ensued regarding copies of pictures that were handed out regarding the 6.1 acres of land for use.

Mr. Vis stated there was a Zoning Code change for Lake County, which is applicable here and what the County allows for chickens and domestic fowl is a maximum of one bird unit per acre of lot area. What that allows is 32 chickens per acre or 16 ducks per acre. The definition of a hobby farm at the County level is at least 2.5 acres or 4.5 acres in a platted subdivision and if it is 2.5 acres and is zoned for a hobby farm, you can have two pigs per acre.

Mr. Vis stated we would have gone for a rezone for a hobby farm, but the Agricultural Zoning for Cedar Lake states you need at least eight acres of land.

Mr. Vis stated his client is looking for a Use Variance on this property to be allowed to maintain up to 20 chickens and ducks for their eggs and up to six pigs. One of those pigs is a domesticated pet. The pigs will be kept 250-feet away from any adjacent areas and allowing them to maintain them on the property.

Mr. Kiepura asked if there were any remonstrators for or against this Petition.

Mr. Nick Shinkle, 6506 141st Avenue, Cedar Lake, commented he is all for it.

Mr. and Mrs. Nick Berchem's Remonstrance Letter is attached at the end of these minutes.

Mr. Kiepura closed public comment.

Ms. Abernathy stated Mr. and Mrs. Bercham live at 6614 W. 142nd Place, Cedar Lake.

Discussion ensued regarding animals living on the property without a Variance.

Mr. Kiepura commented there is not a hardship or difficulty involved with not granting animals on this property other than what the Town Ordinance allows. Mr. Vis commented we have a great piece of

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property that can be utilized for this purpose and large enough to allow for this and my clients have a desire to be self-sustaining and the existing code restrictions would prohibit them from doing it. There is a significant limitation in allowing people to live in a positive lifestyle that we should be endorsing and that is the hardship.

Ms. Linsey Porter, 6425 W. 141st Avenue, Cedar Lake, commented she has a daughter that has a medical condition when she eats specific foods it causes her immune system to react like she has a virus. To raise these animals, we know what she is eating and she will not get sick.

Mr. Hunley asked how are the pigs going to be contained. Ms. Porter commented in a fenced in area and a shelter to stay out of the wind. If this gets approved, the chickens will have their own coop.

Ms. Abernathy commented this first portion of the Petition would be a recommendation to the Town Council.

A motion was made by Mr. Hunley to send a favorable recommendation to the Town Council with stipulations of no more than six pigs, no more than 20 chickens and ducks, the pigs will be raised on the property from September 1 through April 1 of each year, the corralling of the animals will be no closer than 225-feet to the nearest neighbor, the use will be limited to the existing property owners only and shall not run with the land, a Use Commitment will also be included per the Findings of Facts and seconded by Mr. Burnham. Motion passed by roll-call vote: 3 Ayes, 1 Nay:

Mr. Burnham	Aye
Mr. Hunley	Aye
Mr. Jackson	Aye
Mr. Kiepura	Nay

Mr. Kiepura stated the next order of new business is to allow the Petitioner to construct a barndominium house with metal siding, and the use of a metal comex storage box on the property prior to the construction of the house and to continue the use of the storage box as an accessory structure on the lot. Mr. Austgen advised the legals are in order.

Mr. Nathan Vis, Vis Law, 12632 Wicker Avenue, commented the proposed residential structure is a barndominium. One portion will have a second story and a larger garage on the inside. The basic structure of the property would wooden beams or posts. This is prohibited for structures; however, having meetings with Town staff, the concern is the foundation that you get with post structures. We have submitted a proposal of the foundation of the property that would meet State Code, which would have footers sunk in the ground all the way around in addition to those posts being sunk in and would meet the Residential Code. Discussion ensued regarding the materials of the building.

Mr. Vis stated there is a comex box on the property that is being used as storage, but it can be recycled and put a roof on it to make it an exterior shed. The Code does not allow this and we would like to request this for an accessory structure on the property.

Mr. Kiepura asked if there were any remonstrators for or against the barndominium.

Mr. Nick Shinkle, 6506 W. 141st Street, Cedar Lake, commented he votes yes.

Mr. and Mrs. Nick Berchem's Remonstrance Letter is attached at the end of these minutes.

Mr. Kiepura closed public comment.

Discussion ensued in length regarding using wood support beams and metal for the exterior around the house.

Ms. Porter commented it is a package to use metal siding and is less expensive to build the barndominium. Discussion ensued in length.

Ms. Abernathy commented post frame buildings are not allowed in Indiana Residential Building Code. The Building Department says if this is allowed, it has to be built to 2020 Residential Code. They do not think with it being posts, it will meet that Residential Code. Discussion ensued regarding building the home to Indiana Residential Code.

Mr. Kiepura asked how far off the road will the house be. Ms. Abernathy commented approximately 61.69 feet.

Mr. Burnham asked what are the shed requirements. Ms. Abernathy commented 242 feet by 700 feet. Discussion ensued.

Mr. Burnham commented he doesn't want to set a precedence because there isn't any residential house that has metal siding in the Town.

Mr. Vis stated he submitted the answers to three questions that needed to be answered to approve a Developmental Variance and the proposal meets each of those areas even though there might be some aesthetic concerns that we might have personally, that it doesn't stop us from allowing this newer style from emerging.

Mr. Kiepura stated he has a problem with setting a precedence for future constructions with this type of building in the Town and we are trying to keep it a resort atmosphere. Discussion ensued regarding the type of material wanting to be used for the building of this home.

Mr. Vis commented the Board has the ability to impose conditions and if the Board is not amenable to this Use condition to allowing metal exterior, let us know, but to approve the other building that is part of this same Petition.

Mr. Jackson asked is there a timeline on the comex storage box if this is granted to resurface it and make it look like a normal building. Ms. Abernathy commented a time limit can be implemented on how long it can stay after the house is completed. Mr. Kiepura commented they stated they would move the container and enclose it once the house was completed.

Mr. Kiepura asked does the client have other ideas of how to construct this building. Would they want a deferral to next month and maybe come up with something different. Mr. Vis stated his client would have to go back to the drawing board if it cannot be built as proposed.

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Mr. Vis asked if there are any suggestions that this Board has that if we were to come back and say we would be more amenable to incorporating some as ethics into the design to be considered. Discussion ensued.

A motion was made by Mr. Burnham to defer this Petition to the next meeting on February 8, 2024 and seconded by Mr. Jackson. Motion passed by unanimously roll-call vote:

Mr. Burnham	Aye
Mr. Hunley	Aye
Mr. Jackson	Aye
Mr. Kiepura	Aye

Board Discussion:

The Board members discussed moving the BZA meeting time to 6:00 pm.

A motion was made by Mr. Burnham to amend the agenda to have the Board of Zoning Appeals Meeting to start at 6:00 pm instead of 6:30 pm starting in February 2024 and seconded by Mr. Jackson. Motion passed by unanimously roll-call vote:

Mr. Burnham	Aye
Mr. Hunley	Aye
Mr. Jackson	Aye
Mr. Kiepura	Aye

PUBLIC COMMENT: None was had.

ADJOURNMENT: Mr. Kiepura adjourned the meeting at 8:37 p.m.

TOWN OF CEDAR LAKE BOARD OF ZONING APPEALS

John Kiepura

Eric Burnham

James Hunley

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 January 11, 2024

To: Town of Cedar Lake Board of Zoning Appeals

From: Nick and Amy Berchem, Cedar Lake residents

RE: Public Hearing for Vicinity – 6425 W. 141st Ave., Cedar Lake, IN 46303

Public Hearing will be held on Thursday, January 11, 2024 at 6:30 p.m.

This letter is to formally object to Parcel 1, Parcel 2, and Parcel 3 that allows the petitioner to maintain chickens, ducks, and pigs in a parcel of land approximately 6.18 acres as well as the construction of a building not permitted in this residential zoning district.

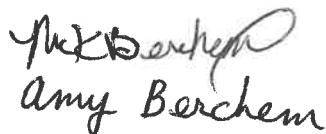
We are concerned about the noise from the chickens and ducks. Secondly, poultry feces stinks. Poultry is prone to predators. We do not want foxes and coyotes to roam our neighborhood with the high volume of domesticated canine companions. We are also concerned about the smell from the pigs, especially in the summer, during the heat.

In the last year, the state of Indiana has had Avian Influenza concerns. Per the Indiana Department of Natural Resources (DNR), as of April of 2023, Avian Influenza was still present in the state. Per the Indiana DNR, *“Avian Influenza affects wild and domestic bird species, primarily waterfowl, raptors, and domestic poultry. Wild Turkeys can also be affected by Avian Influenza. Highly Pathogenic Avian Influenza (HPAI) can quickly decimate an entire flock of poultry. Raptors can become infected by eating infected prey or by coming in contact with surfaces that are contaminated with the virus. Some subtypes of AI can affect mammals such as pigs, cats, horses, dogs, and ferrets, as well as humans. In 2022 cases of AI infection in red foxes were detected in the United States for the first time in Wisconsin, Michigan, Iowa, and Minnesota. Wild land birds (such as birds that use backyard feeders) can carry the virus without becoming sick.”* <https://www.in.gov/dnr/fish-and-wildlife/wildlife-resources/wildlife-diseases-in-indiana/avian-flu-bird-flu/>

The construction of the metal and/or post buildings should not be permitted in this residential zoning district. It will devalue the nearby properties. It will not appeal to incoming residents who are looking to buy or build in this area.

Thank you for reading our concerns. As Cedar Lake residents since 2006, we appreciate the Town of Cedar Lake Board and the work that you do to maintain and enhance our town.

Sincerely,

Handwritten signature of Amy Berchem in black ink.

Nick and Amy Berchem