



CEDAR LAKE BOARD OF ZONING APPEALS MINUTES
CEDAR LAKE TOWN HALL, 7408 CONSTITUTION AVENUE, CEDAR LAKE, INDIANA
February 8, 2024 at 6:00 pm

CALL TO ORDER:

Mr. Kiepura called the Board of Zoning Appeals meeting to order at 6:00 pm, on Thursday, February 8, 2024 with its members attending on-site. The Pledge of Allegiance was recited by all.

ROLL CALL:

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

Mr. Kiepura welcomed Jerry Reiling to the Board of Zoning Appeals.

Minutes:

Mr. Kiepura entertained a motion for the Minutes of December 14, 2023 and January 11, 2024; a motion was made by Mr. Burnham and seconded by Mr. Jackson to approve the same. Motion passed unanimously by roll-call vote:

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

Old Business:

- 1. 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 first order of old business is for a Developmental Variance 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. Nathan Vis, Vis Law, 12632 Wicker Avenue, commented we will be withdrawing Petition 2024-01. It is my understanding that at the Plan Commission meeting there was conversation that dealt with Board of Zoning Appeals matters and there were additional violations, but I have not been notified of those items that were discussed. I would request that Town staff contact me regarding those items. Some of the items I reviewed on the video from last night's meeting is factually incorrect, so it is important that we have good communication moving forward between myself and Town staff on some of these items. We would like to continue with the request that was raised at last night's Plan Commission meeting for Preliminary Plat moving forward.

Mr. Kiepura asked will they be removing what is on the property. Mr. Vis responded in the affirmative and this is part of the conversation we would like to have with Town staff. My client had approval for some of the items during the dependency of the motions. Mr. Kiepura asked approval from who. Ms. Abernathy commented we talked about as long as they were working on coming into compliance, they would not receive violation fines, but not to increase the non-conformity and not to increase the level of violations.

Mr. Vis commented there was conversation my client had with some persons from the Zoning Department, but the inspector stating it was okay to have the additional comex box on the property. My client was acting in good faith and we were not attempting to blind side anybody. We need to discuss what is on the agenda and clarify before we bring things on the record.

Mr. Kiepura stated they were asking for us to approve something that us being the Plan Commission they didn't seem willing to cooperate with us on the items that were in place. Mr. Vis commented the Board is not in a position to make an educated decision to speak to that effect. When it comes to the metal and post frame, I submitted my Petition last week, there are houses in Town that have metal siding, as well as, sharing a picture of a house with a comex building outside they are using as a storage facility. It is important that we clarify as a Town and in our Ordinances, what is allowed, when is it allowed and when it is not allowed.

Mr. Kiepura stated it is the means of construction. A pole barn is a barndominium that is and that is what we are against; using a post frame building as a primary residence.

New Business:

- 1. 2024-02 Faith Church – Developmental Variance – 6729 W. 133rd Avenue**
Owner/Petitioner: Faith Reformed Church Inc., Bryan Ford, 100 81st Avenue, Dyer, IN 46311
Vicinity: 6729 W. 133rd Avenue, Cedar Lake, IN 46303

Mr. Kiepura stated that the first order of new business is for a Developmental Variance to allow the Petitioner to construct an addition onto the existing church to have an overall height of 53 feet. Mr. Austgen advised legals are in order.

Mr. Jack Slager, Schilling Development, representing Faith Church, along with Mr. Jack Huls, from DVG, Inc., Mr. Ted Rohn, Rohn Associates Architects and Mr. Bryan Ford, commented we are in the process of designing a building that will be double in size of the current facility and will seat around 800 people. We are one of the fastest growing churches in the area and expect more growth in the future. We are seeking a Developmental Variance on the height.

Mr. Huls commented the Zoning Code requires no more than 30-feet in an R-2 zone and this property is zoned R-2. It is currently measured from the front of this building and the front of this building fronts to the North on 133rd Avenue. There is a significant grade change that happens on this property and when the building was originally built in 2014, there was a different interpretation of that Zoning Code and the height was taken at the back on the primary floor, so the main level of this building is the top level. The worship center and where the people enter is on the south side, which is at the elevation of that floor and it creates an increase in elevation. It was measured on that side, so we did not seek the Variance in 2014 for this building.

Mr. Rohn, commented there are drawings and renderings, but we added more dimensions. We have been in front of the Plan Commission and they were excited about what we are doing. The drawing has more information on the building height. Our building height on the south elevation and the west elevation is a predominant amount of the frontage on this building is 32.6 feet. We are low across the main level of the building. The height is on the northwest corner and the North elevation has a dimension of 50-foot, 6-inches, but we need a little more room. We are working with the structural engineering, because when designing an 800-seat sanctuary, the space gets bigger than what the existing sanctuary was and needing clear span roof bar Joyce. They want a decent slope on the roof as opposed to a flat roof. The addition will be ADA accessible and continuous with the floor level and there is a 12-foot drop from the backside to the frontside. We are not putting in a basement under this portion of the building. The existing building has a basement and we completed the expansion a couple of years ago.

Mr. Kiepura asked how high is the parapet wall to the sloped roof. Mr. Rohn commented the parapet met all of our dimensions. The roof is lower and we have from anywhere from a 2 to 3-foot parapet, which will help hide some mechanical equipment. The actual roof line is lower than the high points.

Mr. Huls stated the Variance of this type requires three conditions of your Findings of Fact which will not be injurious to the public health and morals of general of the community and we can state comfortably that this Variance will not have a negative effect on the community. This building will continue to function as an asset for the community. The use of this Variance is not going to adversely impact the use and value of adjacent properties. We are just extending the use of the current facility, so we do not see that significant adverse effect on the adjacent properties and we are still 100-feet from the adjacent property line with this building. As it is built out, the use will be similar, primarily on Sunday mornings and some evenings. The strict application of the terms of the Zoning Ordinance will result in practical difficulties for the use of this property and this primarily to the grade. We have from where the building is located to 133rd Avenue of 12 to 15-feet of grade change and that was incorporated in the original design of the building and that is the front facing of the basement and office spaces.

Mr. Burnham asked what is the height of coming off of the wall. Mr. Huls commented the Ordinance reads that from 133rd Avenue we cannot be any higher than 30-feet. We have 12-feet that we have to take off, because that is where the finished floor is. There is 23-feet of building height for the sanctuary space and we need more than that and it is resulting in the height of the building.

Mr. Burnham commented the total feet is needed to finish the wall, so the main floor is flat so it can be accessible throughout. Mr. Huls responded in the affirmative.

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

Ms. Abernathy commented there are no concerns with the building height.

Mr. Jackson asked about the parking. Mr. Rohn stated they will be doubling the parking spots.

A motion was made by Mr. Burnham and seconded by Mr. Jackson to approve the Developmental Variance to allow the Petitioner to construct an addition onto the existing church to have an overall height of 53 feet per the Findings of Fact and the review of legals. Motion passed by unanimously roll-call vote:

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

2. 2024-03 Dudlack & Hoover – Developmental Variance – 12801 Oak Street
Owner/Petitioner: Mitchell J. Dudlack & Katheryn L. Hoover, 12801 Oak Street, Cedar Lake, IN
Vicinity: 12801 Oak Street, Cedar Lake, IN 46303

Mr. Kiepura stated that the next order of new business is for a Developmental Variance to allow the Petitioner to construct an 8-foot by 10-foot accessory structure on a lot less than 10,000 square feet for a total accessory structure size of 656 square feet. Mr. Austgen advised legals are in order.

Mr. Mitchell J. Dudlack, 12801 Oak Street, commented we want to put up a shed, but it is 10-feet from the garage and 6-feet from the fence.

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

Ms. Abernathy commented this is 500 square-feet shy of the 10,000 square-feet required for an 800 square-foot accessory structure. We let the owners know they needed the Variance and the lot coverage will be 19.4 percent should it be approved and it is 56-feet over what they are allowed.

A motion was made by Mr. Burnham and seconded by Mr. Hunley to approve this Developmental Variance to allow the Petitioner to construct an 8-foot by 10-foot accessory structure on a lot less than 10,000 square feet for a total accessory structure size of 656 square feet per the Findings of Fact. Motion passed by unanimously roll-call vote:

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

3. 2024-04 Kolber – Developmental Variance – 10833 W 133rd Ave
Owner: CWK Properties – Cedar Lake LLC, 7949 W. 79th Street, Bridgeview, IL 60455
Petitioner: Steven Kolber, 828 Davis Street, Evanston, IL 60201
Vicinity: 10833 W. 133rd Avenue, Cedar Lake, IN 46303

Mr. Kiepura stated that the next order of new business is a Developmental Variance to allow the Petitioner to have parking in the front yard setback and a reduction in side yard setback on the eastern boundary to 7 feet for a proposed new commercial business. Mr. Austgen advised legals are in order.

Mr. Steven Brooks, 828 Davis Street, Evanston, IL 60201, commented Steven Kolber is my business partner and he couldn't be here today. The side yard setback we would like to get it down to 7-feet and we are also looking to get parking in the front yard setback. The Jets Pizza has no seats for eat in, but the Wingstop has eight seats for eat in.

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

Mr. Larry Stenger, 10809 W. 133rd Avenue, commented my lot is on the east side of this proposed building and it they are asking for 7-feet. What is the Variance for the fence on the East property line. I understand that this is a minimum of 6-foot from the back to the front of the property, which is how far. If they leave the regular setback, and shift the whole project approximately 13-feet to the West, it would be changing nothing and it wouldn't be right on top of my property. As long as we have the buffer zone from the front of the property to the back, that's 150-feet. There is a sight view in the front for fencing and am unaware of what that Ordinance be. The main concern is being close to the East property line.

Mr. Stenger asked what is the current setback for building on adjacent to a residential R-1. Ms. Abernathy commented 15-feet. Mr. Stenger commented there is approximately 13-feet of greenspace that could disappear and shift the whole project to the West and not lose any parking in the front and the back. Discussion ensued.

Mr. Burnham asked is there a certain amount of greenspace required on the lot. Ms. Abernathy stated there has to be a certain amount of pervious and impervious required.

Mr. Stenger commented if the project gets shifted 8-feet, nothing would be lost. Discussion ensued in length regarding the setbacks if the project shifted.

Mr. Stenger asked the buffer zone between commercial and residential because of the sight view in the front, claims to be a minimum of 6-foot fencing or natural berm, how far can that fence run to the front property street sight view. Mr. Reiling commented the Ordinance states the fence would have to stay so far off of the street. Discussion ensued in length regarding how far the fence will be from the easement.

Mr. Austgen stated they are going to have to apply for a fence permit and when that comes in, it will be measured and evaluated against the Ordinance.

Mr. Richard Thiel, 11363 W. 135th Place, commented there is a buffer in-between because of the sliver to the East. It is the drainage easement, which is 11-feet. It doesn't show up on the blueprints that you are looking at on the Site Plan. Discussion ensued.

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Mr. Terry Broadhurst, 14513 Morse Street, commented he is not for or against, and is hoping they get the progress they need to keep going forward. There is an existing egress and entrance into the property from 133rd Avenue. It is probably far from that edge and to move that might be the reason why they have it that close or they are trying to move it over.

Mr. Kiepura closed public comment.

Mr. Brooks commented the ingress and egress is a valid point on the North.

Mr. Burnham commented see if the building can be moved over, and if so, the Variance would not be needed. The fence would need a permit pulled.

Mr. Brooks asked to defer this item to next month.

A motion was made by Mr. Burnham and seconded by Mr. Reiling to defer this Petition to the next meeting on March 14, 2024 with continuation of public hearing. Motion passed by unanimously roll-call vote:

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

PUBLIC COMMENT: None was had.

ADJOURNMENT: Mr. Kiepura adjourned the meeting at 6:53 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 February 8, 2024