



**CEDAR LAKE PLAN COMMISSION WORK SESSION MINUTES**  
**CEDAR LAKE TOWN HALL, 7408 CONSTITUTION AVENUE, CEDAR LAKE, INDIANA**  
**April 6, 2022 at 7:00 pm**

**CALL TO ORDER:**

Mr. Wilkening called the Plan Commission Work Session to order on Wednesday, April 6, 2022, at 7:03 pm with its members attending on-site. The Pledge of Allegiance was recited by all.

**ROLL CALL:**

**Members Present:** Robert Carnahan; John Foreman; Heather Dessauer; Richard Sharpe, Secretary; John Kiepora, Vice-President; Jerry Wilkening, President. A quorum was attained. **Also present:** Don Oliphant, Town Engineer; David Austgen, Town Attorney; Chris Salatas, Town Manager; Kristina Kuzma, Planning Director; and Ashley Abernathy, Recording Secretary. **Absent:** Chuck Becker.

**1. Starcevic – Final Plat – One Lot Subdivision**

**Petitioner: Tom Starcevic**

**Vicinity: 7615 West 142<sup>nd</sup> Avenue, Cedar Lake, IN 46303**

Mr. Wilkening stated the first order of business was for the Final Plat for a One Lot Subdivision by Petitioner Mr. Tom Starcevic in the vicinity of 7615 West 142<sup>nd</sup> Avenue.

Mr. Starcevic advised he was requesting Final Plat for the One Lot Subdivision.

Mr. Oliphant informed the Commissioners everything was in order and the only comment he had was a reiteration of the waivers granted with Preliminary Plat.

Mr. Wilkening asked Mr. Austgen if he had any comments for this item. Mr. Austgen responded in the negative.

Mr. Wilkening asked Ms. Kuzma if everything was good from the Building Department. Ms. Kuzma responded in the affirmative.

**2. Wiers – Electric Power Solutions LLC – Preliminary Plat – One Lot Subdivision & Site Plan**

**Owner: John & Darlene Boersma**

**Petitioner: Electric Power Solutions LLC**

**Vicinity: 12828 Wicker Avenue, Cedar Lake, IN 46303**

Mr. Wilkening stated the next order of business was for the Preliminary Plat for a One Lot Subdivision and a Site Plan by Petitioner Electric Power Solutions LLC in the vicinity of 12828 Wicker Avenue.

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Mr. Jack Huls, DVG Team, representing the Petitioner, advised the Plan Commission the Petitioner had submitted a letter withdrawing both of his petitions.

Mr. Wilkening asked Mr. Oliphant about the stormwater review and if there had been an extensive stormwater issue for the property. Mr. Oliphant responded there had been a review of the stormwater completed, but there is not an extensive stormwater issue. Mr. Huls commented on the same and stated the stormwater was not why they were withdrawing the petition.

Mr. Wilkening directed for this item be removed from the Plan Commission agenda.

**3. Silver Meadows – Rezone**

**Owner: Town of Cedar Lake**

**Petitioner: Diamond Peak Group LLC**

**Vicinity 155<sup>th</sup> and Parrish Avenue, Cedar Lake, IN 46303**

Mr. Wilkening stated the next order of business was for a Rezone request from Agricultural to Planned Unit Development by Petitioner Diamond Peak Group LLC in the vicinity of 155<sup>th</sup> and Parrish Avenue.

Mr. Huls, DVG Team, representing the Petitioner, advised the Plan Commission that DVG Team had been retained to conduct the engineering and the platting work for the subdivision. There is a lot of work to be completed and requested that this item be removed from the agenda until the project is ready to move forward.

Mr. Wilkening discussed the establishment of the Park Board and that submissions from developers be submitted to the Park Board as well about amenities being offered.

Mr. Wilkening asked Mr. Huls if he knew how many phases there would be for this neighborhood due to sewer tap issues with the property. Mr. Huls advised that was one of the items that would need to be discussed with the Planning Department.

Mr. Kiepora asked how long it would take until this item would re-appear on the agenda. Mr. Huls stated he anticipates a submittal in May or June for the month following.

Mr. Austgen advised Mr. Huls that the Town is waiting for his client to complete the transaction and discussed the land exchange. Mr. Huls stated he would discuss this with his client. Discussion ensued regarding the application for the rezone not being ready and the necessity of the completion of the land-swap transaction.

**4. 141 Partners LLC – Rezone**

**Owner: Mike Neubauer**

**Petitioner: 141 Partners LLC**

**Vicinity: 10702 West 141<sup>st</sup> Avenue, Cedar Lake, IN 46303**

Mr. Wilkening stated the next order of business was for a Rezone request from Agricultural to B-2 Zoning by Petitioner 141 Partners LLC in the vicinity of 10702 West 141<sup>st</sup> Avenue.

Mr. Russ Pozen, DVG Team, representing the Petitioner, stated they had been present at the March Work Session with their Concept Plan for the storage facilities and the office. There has been no change from their Concept Plan, and they are looking to Rezone from Agricultural to B-2 Zoning.

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Mr. Austgen asked if this petition was just for the rezone of the property. Mr. Pozen responded in the affirmative.

Mr. Wilkening asked if the entirety of the property was going to be built at once or would it be completed in phases. Mr. Neubauer responded it would be done in phases, with the project likely being completed in two phases. Mr. Pozen asked if the Plan Commission would want to see an exhibit that illustrated the phases for the project. Mr. Wilkening responded in the affirmative.

Ms. Kuzma advised the Plan Commission the Petitioner also has a petition going before the BZA for a Special Use to allow for the storage facility.

**5. MacArthur Elementary – Preliminary Plat for a One Lot Subdivision, Rezone, and Site Plan**  
**Petitioner: Crown Point Community School Corporation**  
**Vicinity: MacArthur Elementary, 12900 Fairbanks, Cedar Lake, IN 46303**

Mr. Wilkening stated the next order of business was for the Preliminary Plat for a One Lot Subdivision, Rezone and a Site Plan for MacArthur Elementary School in the vicinity of 12900 Fairbanks by Petitioner Crown Point Community School Corporation.

Dr. Todd Terrill, Crown Point Community School Corporation Superintendent, discussed the challenge of the new houses being built in both Cedar Lake and Crown Point and they need to ensure that the schools in their district are able to handle the influx of new students. Part of this preparation is to ensure that all of their elementary schools are improved to allow the schools to serve the determined level of students. As such, they are wanting to conduct some major upgrades to MacArthur Elementary School and put in some additions, which will put the school at a maximum capacity of approximately 700 students.

Dr. Terrill advised to reach the maximum capacity goal they need to add classrooms, increase and improve the learning environment, add a gymnasium, and remodel the cafeteria. Tonight, Ms. Cheryl Zic, Crist, Sears, and Zic, LLP, school attorney; Mr. Jim Thompson, Gibraltar Design; Mr. Dion Katsouros, Skillman Corporation; and Mr. Don Torrenga, Torrenga Engineering, are present and able to speak further on what they are wanting to do with the school.

Mr. Wilkening asked if the presentation would be a re-iteration of the concept plan. Dr. Terrill responded it is. However, there will be some changes with the presentation.

Mr. Thompson presented the plans for the school, including the modifications to the plan. Mr. Thompson highlighted the following points of changes to the school:

1. Car rider queue and stacking location was relocated to be off of 129<sup>th</sup> Avenue. They created the car rider queue to have three lines for stacking, with the suggestion of starting the stacking with two lines and move to three lines when necessary.
2. Described how the car rider queue stacking would work, including how the cars would flow through the stacking queue for pick-up and drop-off. The car rider queue was designed to be a right-in, right-out off of 129<sup>th</sup> Avenue.
3. Increase to the bus parking area and improvement on how the busses arrive and leave the site with additional separation between busses and the car rider queue.

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4. Increase in the overall parking of the property from approximately 80 spaces to approximately 200 spaces. There was an inclusion of a parking lot at the entrance of the office area.
5. Moving the main entrance on to the school to be aligned with 129<sup>th</sup> Avenue, as requested.
6. There was a request for a traffic engineering study to be conducted for additional analysis. They had a traffic engineering study conducted to help determine the best traffic flow for the school. They included a letter from the traffic engineer they consulted for the traffic study.

Mr. Wilkening asked about the items identified on Mr. Oliphant's letter as being not addressed or partially addressed, including the additional Right of Way. Mr. Oliphant advised the additional Right of Way is limited to where the building line is, and he believes it has changed. They are waiting on a resubmittal.

Mr. Wilkening asked if there was any concern with the additional traffic flow. Mr. Oliphant responded in the negative. Discussion ensued regarding the increase of car pick-ups being approximately 60 percent.

Mr. Oliphant commented the biggest hurdle with the project will be the rezoning and the PUD document. Ms. Zic advised there was a submittal of the PUD document on the Friday, April 1, 2022. Discussion ensued regarding the submittal of the documents on the Friday prior to the meeting and the request to provide the documentation to all intended parties.

Ms. Kuzma advised the Commissioners the Petitioner had filed on Friday, April 1, 2022, for the PUD and Site Plan, which was the deadline for the May meetings. The One Lot Subdivision was the only item filed for the April meeting. There are concerns with the additional parcel being added as the Preliminary Plat does not reflect the added parcel. Mr. Torrenza advised there was a new Preliminary Plat and a PUD Final Plat, with all necessary documentation, submitted on Friday. Ms. Zic commented when they had met with staff, there had been discussion that if they had everything in by April 1 by noon, they could be on the April Public Agenda. Discussion ensued at length regarding the filing deadline and when the petition would occur on the Public Agenda.

Mr. Austgen advised the Plan Commission to consider a Special Public Meeting for this petition for the first meeting in May to allow for proper reviews to be conducted. Mr. Wilkening asked if a Special Public Meeting occurring at the first meeting in May is a feasible option. Ms. Kuzma responded in the affirmative, as long as they meet the requirements for advertisement. Discussion ensued about the potential of having a Special Public Meeting for this petition on May 4, 2022, and having an update at the April 20, 2022, meeting.

Mr. Thompson asked if they are able to have a Special Public Meeting on May 4, would they be able to make it to the May 17 Town Council Meeting. Mr. Austgen responded in the affirmative.

Ms. Zic asked if they needed to be present on April 20 for a study session prior. Mr. Wilkening responded if there is a list of concerns from Mr. Oliphant, it would be beneficial. Discussion ensued regarding if the Petitioners' need to be present at the April 20, 2022, Public Meeting, and to provide an update.

**6. NYBY Development Corp – Concept Plan**  
**Owner: Ley & Josephine Del Rosario**

**Petitioner: NYBY Development Corp**

**Vicinity: 9710 West 133<sup>rd</sup> Avenue, Cedar Lake, IN 46303**

Mr. Wilkening stated the next order of business was a Concept Plan by Petitioner NYBY Development Corp in the vicinity of 9710 West 133<sup>rd</sup> Avenue.

Mr. Doug Homeier, McMahon Associates, advised he was going to be the engineer and surveyor for the project and he was present with Mr. David Lee, President of NYBY Development Corp, and Marty Thacker, MTI Services.

Mr. David Lee advised the Plan Commission they closed on the property on March 25, as such, the ownership of the property has changed.

Mr. Homeier stated the plan was to build a 5500 square foot building that is similar to the building in Winfield. The lot is zoned B-3 and, while the lot is a little greater than 2,800 square feet, it was before the requirements of the new Zoning Ordinance, which requires 40,000 square feet. As such, the application was filed under the previous Zoning Ordinance, which was verified with Ms. Murr when they filed. They submitted their plans to Mr. Oliphant and were subsequently advised they would need to apply for variances for the building setback lines.

Mr. Foreman asked Mr. Austgen if petitions filed before the new Zoning Ordinance were to be voted on under the old Zoning Ordinance. Mr. Austgen responded that it did. Mr. Lee discussed having checked with Ms. Murr on which Ordinance this petition would fall under prior to filing.

Mr. Homeier advised they were going to go through the One Lot Subdivision process to combine the two lots owned by NYBY Development.

Mr. Lee stated that their proposed building will be almost identical to one put up in Winfield. The building will be of brick and wood composite siding, with a wood-frame structure that will have a brick veneer and a smart-side siding. Mr. Lee presented a photograph of the building located in Winfield to the Commissioners.

Mr. Wilkening asked if there were going to be three overhead doors for the building. Mr. Lee advised they would only have two overhead doors, one located on the south side and the other located on the east side of the building.

Mr. Wilkening asked the Petitioner what the variance would be for. Mr. Homeier responded the variance requests would be for setbacks along the north and west sides of the property. Discussion ensued regarding where the overhead doors would be located and the flow of the traffic for the building.

Mr. Homeier advised they have included an extra parking spot that is not required, which could be removed. However, they would like to keep that additional parking spot and request a variance for the setbacks.

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Mr. Wilkening asked if an application needed to be made for a Concept Plan. Mr. Austgen responded in the negative and said it is not required by Town Code. Mr. Oliphant discussed that there is a Concept Plan check box on the Plan Commission application.

Mr. Wilkening advised that the screening on the north and west for this property would be extremely important due to its location. Mr. Lee asked the Plan Commission if they would prefer to see vegetation or a fence. Mr. Wilkening advised the screening would be up to the Petitioner to determine. Mr. Homeier asked the Plan Commission if they had a preference on which style of screening they would prefer to see. Mr. Oliphant advised they could do arborvitaes, but they need to be a certain level of thickness or a six-foot opaque fence. Mr. Wilkening and other members noted that greenery would be preferable over the fence.

Mr. Wilkening asked what the hours of operation would be for the business. Mr. Thacker advised it would be from 8 am to 5:30 pm Monday through Friday and 8 am to 1 pm on Saturday, with no hours of operation on Sundays. Discussion ensued regarding the lot requirements for B-3 Zoning District, including setbacks and minimum lot width, and the zoning of the parcel. Ms. Kuzma advised the old Zoning Ordinance required a lot size of not less than 20,000 square feet and a width of not less than 100 feet at the building line.

Mr. Homeier asked when they would need to request the variances for the lot. Mr. Austgen advised they could begin filing for the variances as one approval would be contingent upon the other. Mr. Wilkening asked how many variances would be needed. Mr. Homeier responded there would need to be three variances total, for the parking lot and building setback lines on the west and east side of the property.

Mr. Wilkening asked if the survey conducted was accurate to what appeared on Lake County GIS. Mr. Homeier responded in the affirmative and advised he had already conducted a boundary survey on the property and located all necessary items, such as easements and sanitary lines. Mr. Oliphant advised the Commissioners the Right of Way was already dedicated for the property.

Mr. Salatas asked if the façade color will be similar to the façade color of the school. Mr. Lee advised he is not sure but he brought a sample of the brick façade they will use. Mr. Lee displayed the sample to the Commission. Discussion ensued regarding the façade and the sample presented looking similar to the façade of the school

Mr. Wilkening asked if the business was going to be an auto repair shop. Mr. Thacker responded in the affirmative. Mr. Wilkening asked if they would have a spot to store the tires. Mr. Thacker advised the building would be large enough to store the tires and used oil tanks inside.

Mr. Austgen advised having a zoning commitment for the use to ensure the business plan is enforceable.

Mr. Wilkening advised the Petitioner to present a copy of their business plan at the next meeting. Discussion ensued regarding the business conducting auto repair on vehicles and light trucks and keeping the outside of the shop clean.

Ms. Kuzma advised the Plan Commission the Petitioner has submitted an application for Preliminary Plat and asked if they would like to see the Preliminary Plat with the variances or for both petitions to the Plan Commission and the BZA run concurrently. Mr. Wilkening indicated having the items running concurrently would be beneficial. Mr. Foreman asked if there had been an application submitted for the variances. Ms. Kuzma responded in the negative. Discussion ensued on when the Petitioner would need to apply for the BZA requests.

Ms. Kuzma noted that the deadline for the May BZA filings had passed to be on the June BZA. They need to submit everything by the first of May.

**7. Wicker Enterprises LLC – Concept Plan**

**Owner: Chicago Trust Company Trs TR#6388 (OTD 10/30/2015)**

**Petitioner: Wicker Enterprises LLC**

**Vicinity: 13495 Wicker Avenue**

Mr. Wilkening stated the next order of business was a Concept Plan by Petitioner Wicker Enterprises LLC in the vicinity of 13495 Wicker Avenue.

Ms. Jennifer Irons Jostes and Ms. Jamey Glynn were present on behalf of the Petitioner. Ms. Jostes advised they have been at their current location for approximately eight years and are looking to build a new law office. They have filed for the BZA Variances that they would need, which would be for the parking. While they are over on their required parking, they are over the setback lines by approximately 10 feet and 5 feet. They would have their entrance off of 135<sup>th</sup> Place, so they would not need an entrance off of US 41. They have had some preliminary discussions with Mr. Oliphant.

Ms. Dessauer asked if this location was where their practice was located currently. Ms. Iron-Jostes responded in the negative and advised their current practice is located south of this property.

Mr. Wilkening asked the size of the lot. Mr. Oliphant responded it is approximately 160 feet by 150 feet. Ms. Iron-Jostes advised the Plan Commission they had similar thoughts of the lot being too small and reviewed drone footage of the property. They carefully evaluated and drew out their Concept Plan, including setback lines, the building size, and the size of the parking lot. They did have discussions with Ms. Murr regarding the lot due to previous interest on the property.

Mr. Wilkening asked what variances they would need for the property. Ms. Iron-Jostes advised they would need a variance for the setback for the parking and the turnaround space at the rear parking area.

Mr. Wilkening asked for the current zoning of the property. Mr. Oliphant advised the property is currently zoned B-2.

Mr. Oliphant advised the Petitioner the front yard setback off of US 41 would likely require a variance and explained the setback requirements off of US 41. Ms. Iron-Jostes discussed that they have a 60-foot setback noted off of US 41, and they encroach five feet in the setback. Mr. Oliphant explained they have the Right of Way noted as 30 feet, when it is 65 feet and the setback is 50 feet off of the Right of Way.

Discussion ensued regarding the width of the Right of Way and the Petitioner needing another variance and the expansion of US 41.

Mr. Wilkening asked if the variances for the BZA have already been advertised. Ms. Kuzma responded in the negative and advised this was part of the reason for the cancellation of the April BZA meeting. However, the Petitioner only applied for the parking variance, not a variance setback off of US 41. Mr. Oliphant advised it would also be a parking setback.

Ms. Iron-Jostes asked if the setback is from US 41 in accordance with the Zoning Ordinance. Mr. Oliphant advised it was off of the Right of Way.

Mr. Wilkening asked how many lawyer offices were going to be in the building. Ms. Iron-Jostes responded it would be just their firm, and they have more than enough parking available, even if they add two to three additional staff. Mr. Wilkening asked about parking when there are clients being seen in the office. Ms. Iron-Jostes responded they would only have two conference rooms in their building and generally they only have one client in the office at a time. Occasionally, there would be two clients in the office and with mediation there would be a maximum of three to four people in the office. They do space their appointments out to reduce traffic.

Mr. Wilkening asked how many extra parking spaces they have. Mr. Sharpe advised their packet stated they would have 25 parking spaces and there is a breakdown located in their packet.

Ms. Iron-Jostes asked if they would need to redo their variance or if how they originally filed the variance would be fine. Mr. Oliphant advised it would potentially need to be reworded. Mr. Austgen requested for the variance to list the sections of the Zoning Ordinance from which the variance is requested.

Mr. Wilkening asked if there would be a problem with a commercial property having an entrance off of a residential street and commented there had been discussion recently about having a commercial entrance off of a residential road. Mr. Austgen responded in the negative. Discussion ensued regarding the same.

Ms. Iron-Jostes asked what their next steps need to be to continue in the process. Mr. Wilkening advised the Petitioners to work with Town staff on putting together a plan to get back in front of the Plan Commission and ensure that all variances required are correct. Ms. Iron-Jostes asked if that would mean they need to submit an application for a Site Plan and a more detailed Site Plan. Mr. Wilkening responded in the affirmative.

#### **8. Shander – Concept Plan**

**Owner: Michael & Nanci Shander**

**Petitioner: Ryan Gasbarro**

**Vicinity: 13177 Colfax Street, Cedar Lake, IN 46303**

Mr. Wilkening stated the next order of business was for a Concept Plan by Petitioner Mr. Ryan Gasbarro in the vicinity of 13177 Colfax Street.

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Mr. Gasbarro, representing the Owner, advised there was documentation provided to the Plan Commission to show the layout and setbacks of the proposed structure located in Lot 2 of the current subdivision.

Mr. Salatas advised there had been a lot of waivers initially granted for the subdivision and stated the Owner's plan was to build on Lot 2 and not have any development on the last two lots. There has been discussion that combining the lots and creating a One Lot Subdivision would be the best route. However, there would need to be consideration given for the previously granted waivers and for the properties located to the west to maintain access for potential future development.

Ms. Dessauer asked the Petitioner what their plan was. Mr. Gasbarro responded they are wanting to build a residence on Lot 2. Mr. Wilkening asked if there was already an existing structure on Lot 2. Mr. Gasbarro responded in the negative and advised the layout presented to the Plan Commission was for the proposed residence.

Mr. Wilkening asked if the One Lot Subdivision process has been explained. Mr. Gasbarro responded it was his understanding they were being requested to ask to combine their three lots into one lot.

Mr. Wilkening asked if they would need to put in a ditch and all other required elements of a subdivision. Mr. Oliphant responded that was tricky portion of this Concept Plan and discussed the previous waivers granted had been with the understanding of all four lots being developed and currently utilities are only extended to the bottom of Lot 2 and the waivers that would now be needed.

Ms. Dessauer asked if the property was originally a four-lot subdivision in accordance with the February 17, 2017, letter. Mr. Oliphant advised it is currently platted as a four-lot subdivision. Ms. Dessauer asked the Petitioner if their plan was to combine the back three lots and build one structure. Mr. Gasbarro responded in the affirmative. Ms. Dessauer asked what would be the issue with the plan. Mr. Oliphant advised the Owners are not wanting to improve the public infrastructure to the end of their property. Discussion ensued on extension of the utilities to the back of the Owner's properties if the property is combined.

Mr. Salatas advised the while the utilities would not need to go to the end of the property, it would be advisable to have utilities and the roadway extended to the next adjoining property on the west to allow for any future development. Mr. Oliphant stated the properties on the west are legal lots of record and the Subdivision Control Ordinance would not be triggered for improvements. If the owners were to come into Town to develop their land, utilities and roadway would need to be extended. Mr. Wilkening stated having the location of where the utilities and roadway would need to go to on paper would be advisable.

Mr. Gasbarro stated any form of an extension would be a deal breaker for Mr. and Mrs. Shander. A marginal extension might be doable, but not any form of major extensions, and the lot they intend to build upon already has utilities and the roadway going to the lot. He would not speak to what the Shanders would consider excessive or where they would accept an extension to. Discussion ensued regarding the extension of utilities and roadway and the anticipated lot to extend utilities to.

Mr. Wilkening advised the Petitioner to have their plans put on paper to determine what is excessive or not. Mr. Salatas stated he believed the Owners would ask that everything is waived.

Ms. Dessauer asked if this was similar to a different property that had been in front of the Plan Commission a few months ago. Mr. Wilkening responded in the affirmative. Mr. Oliphant advised it was different because there was no Right of Way that extended into that property. Discussion ensued regarding the two properties, how this petition is different from the different property's petition, what waivers the Owners were going to want, and where they would like for the utilities and roadway to end.

Ms. Dessauer asked who would be improving the roadway. Mr. Salatas responded the previous developer was supposed to improve the road but did not. Mr. Wilkening asked if there was no assurance. Multiple individuals responded there was never a Performance Letter of Credit or Maintenance Letter of Credit created for the subdivision.

Mr. Kiepura commented it was his understanding the developer only had to do improvements to the road if there were plans to build on the lots located in the back. Mr. Oliphant advised that in accordance with Town Ordinances, the entire frontage would need to be improved, regardless of where they build on their property. Mr. Kiepura asked for clarification that regardless if the property was made into a One Lot Subdivision or not, there would be requirements to run the road to the end of the subdivision. Mr. Oliphant responded in the affirmative, unless waivers are granted.

Mr. Wilkening commented if the waivers are granted, they would need to ensure the stormwater goes to the east and not to the south. Mr. Oliphant advised there are currently two platted easements on the north and south sides of the lots, because without curb and gutter, there is a requirement to construct swales along the Right of Way to ensure the stormwater goes to where it needs to go.

Mr. Wilkening asked what the size sewer line would need to be. Mr. Oliphant responded if it was a main line, it would need to be eight inches. Discussion ensued regarding how the lots on the west are currently owned.

Mr. Gasbarro stated he had received some communication on the viability of the lots on the west being buildable.

Mr. Oliphant advised if there is a combination of the three lots into a One Lot Subdivision, there should be a caveat that the lots can no longer be subdivided again. Mr. Wilkening asked if that would need to run with the land. Mr. Oliphant responded in the affirmative. Mr. Gasbarro asked how that would be documented. Mr. Wilkening responded there would need to be a legal document to go with the deed. Mr. Austgen advised it could be included on the plat that there is no further subdivision.

Mr. Wilkening discussed when the homeowner is constructing their property, there is the potential to work with the Utility Board regarding the extension of utilities to the end of the Owner's property to help alleviate potential issues on the west side and asked if there needs to be an easement across the front of the Owner's property. Mr. Salatas responded there should currently be an easement. Mr. Oliphant

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advised the Right of Way is already dedicated and there are drainage easements. Discussion ensued regarding the location of the easements and reviewing them when the Preliminary Plat is presented.

Mr. Wilkening asked the Petitioner if they understood it was going to be starting over with the subdivision process. Mr. Gasbarro responded in the affirmative and thanked the Plan Commission for their consideration.

Mr. Oliphant stated before starting the subdivision process to create a One Lot Subdivision, the Plan Commission needs to be clear on what they are willing to give up or require. Mr. Wilkening asked Mr. Oliphant to compile a list of items that would need to be waived. Mr. Oliphant responded it would be roadway improvements, utility extensions, and detention. Discussion ensued at length regarding the evaluation of the proposed One Lot Subdivision and what the Plan Commission would be wanting to waive or see for the property.

Mr. Kiepura asked if they could combine Lots 3 and 4 as a One Lot Subdivision and have documentation listed on the deed if those lots are ever sold, the new owner would need to extend utilities and the road. Mr. Oliphant advised that is a potential option. Discussion ensued at length regarding the property and the plan the Owners have for the property and that the creation of a One Lot Subdivision is the way to move forward with the property.

Mr. Kiepura asked for clarification if the discussion was to combine Lots 2, 3, and 4 into a One Lot Subdivision. Mr. Wilkening and Mr. Carnahan responded in the affirmative. Mr. Oliphant stated with the inclusion of a caveat the property is not allowed to be re-subdivided again.

Mr. Gasbarro stated they were looking for the path that could help them avoid any form of roads or utilities. To his understanding, they are to compile a list of what would need to be physically waived. Mr. Gasbarro asked what he needed to submit and by what deadline, and what waivers they would be need to look for. Mr. Oliphant advised the list for waivers would include all road improvements and all utilities and he was under the assumption they were going to request a waiver from everything required by the Subdivision Control Ordinance.

Mr. Gasbarro asked if they were to go to the Utility Board to ask about the utilities. Mr. Salatas advised they could make a petition to the Utility Board. However, the Utility Board is pretty well leveraged for projects. Mr. Wilkening clarified he mentioned the Utility Board as a potential option for if there are issues with expanding utilities. Discussion ensued on needing new variances for the property after the One Lot Subdivision.

Mr. Gasbarro asked when they could talk with someone about what all they need to do. Mr. Wilkening advised the Petitioner to talk with Mr. Salatas or Ms. Kuzma the following week. Mr. Gasbarro asked Ms. Kuzma if he could contact her the following Monday. Ms. Kuzma responded in the affirmative.

## **9. Building Regulations & Fee Amendment**

Mr. Wilkening stated the next order of business was for the Building Regulations and Fee Amendment. Mr. Austgen advised he is reviewing this item and asked for some time to discuss this item with Town staff.

Mr. Wilkening directed this item to remain on the agenda as an Update Item.

#### **10. Discussion on Side Walk Fee in Lieu of**

Mr. Wilkening stated the next order of business was for continued discussion on the fee in lieu of side walk and asked the Commissioners if they wanted to keep pursuing or stop pursuing this item. Mr. Carnahan responded he would like to stop pursuing this item. Ms. Dessauer advised she wanted to keep pursuing this item.

Mr. Carnahan asked Mr. Austgen if there was concern for litigation with implementing a fee in lieu of sidewalk. Mr. Austgen advised if he was representing a developer, it would be an item he would review. Especially if the developer did not put in sidewalk and had to pay for not putting in a sidewalk. Mr. Wilkening commented it would have been a voluntary and they had reduced the fee in lieu of sidewalk down to Legacy Lot properties. Mr. Foreman commented there had also been discussion on using the fee in lieu of sidewalk for illogical sidewalks.

Mr. Oliphant advised the Commission he did not agree from a planning perspective to put a sidewalk in an area where there would be no sidewalk connectivity and stated he is unsure if there would be a legal way to collect funds in place of a sidewalk. Discussion ensued regarding if there would be legal issues with creating a fee in lieu of sidewalk.

Mr. Austgen inquired how often did the Plan Commission anticipate utilizing the fee in lieu of sidewalk. Mr. Oliphant advised he could review how many One Lot Subdivisions had been completed in the past five years that received waivers for sidewalk. Mr. Wilkening indicated he would like to know the number from Mr. Oliphant's review.

Mr. Foreman discussed the potential of putting a limit for allowing a waiver for sidewalks based on the number of lots for a subdivision or based on the type of subdivision. Mr. Wilkening commented he was thinking of future sidewalks for the Town in which there would be the capability to put sidewalks. Mr. Oliphant discussed reviewing it from a planning perspective based on potential future growth and knowing the long-term plan for the Town. Discussion ensued regarding properties that would not be beneficial or safe to include a sidewalk and the potential for a voluntary capture of funds to put toward future sidewalks. Further discussion ensued regarding if it is not legally advisable to pursue having a fee in lieu of sidewalk, they should stop pursuing this item.

Mr. Oliphant asked Mr. Salatas what occurred at Lowell when they created their fee in lieu of sidewalk. Mr. Salatas responded Lowell created their fee in lieu of sidewalk because there had been a few areas in Lowell needing connectivity and areas that were being developed where sidewalks would not make sense. In these cases, they were given the option of a waiver from sidewalks instead of installing the sidewalks. Mr. Wilkening asked how many issues came up because of the fee in lieu of. Mr. Salatas advised he was

currently unaware of any issues with the fee in lieu of sidewalk. Discussion ensued regarding how sparingly Lowell utilized their fee in lieu of sidewalk and how they would use the fee in lieu of sidewalks in developments in the rural areas of Lowell.

Mr. Salatas advised the Plan Commission that Lowell utilized the fee in lieu of sidewalk as a last resort due to the preference for development to always put in a sidewalk. Further discussion ensued at length about tabling this item or no longer pursuing this item.

Mr. Wilkening asked the Plan Commission if they thought they should be done with this item for now. Mr. Kiepura stated the problem for wanting this item is for money, and he agrees with tabling discussions for a fee in lieu of sidewalk.

Mr. Kiepura asked Mr. Salatas how much money had been generated from Lowell's fee in lieu of sidewalk. Mr. Salatas responded approximately \$90,000 had been generated by the time he left Lowell. Mr. Kiepura asked how long had it taken for that generation. Mr. Salatas responded it was approximately three to four years. Funds were generated when a new development came in.

Mr. Kiepura discussed the fee in lieu of sidewalk the Plan Commission has been discussing is for old Cedar Lake Legacy Lots. It was not for any new developments.

Ms. Dessauer stated they would continue to see an increase of homes being purchased, demolished, and rebuilt. The second issue is the fact that children are not able to walk to school due to lack of sidewalks. If there is a way to utilize funds to gear towards allowing children to walk to school safely, to her it is not an option to be tabled. Discussion ensued regarding other ways to capture funds to put in sidewalks, and further discussion on the legality of implementing a fee in lieu of sidewalk.

Mr. Austgen advised charges are required to be objective, non-discriminatory, and uniformly applied. Individuals cannot be treated differently, and they cannot guarantee they will be able to treat individuals equally, which would be the problem with the fee in lieu of sidewalk. Mr. Austgen discussed the history of sidewalks in the Town and how far the sidewalks have come. There is a need and a desire to provide interconnectivity and sidewalk enhancement. While there is a need and a desire have more sidewalks, collecting money from those who will not receive the benefit is problematic.

Mr. Wilkening directed for this item to be tabled.

## **11. Moving Meeting Time**

Mr. Wilkening stated the next order of business was for the discussion of potentially moving the meeting time. Mr. Wilkening advised the Plan Commission they moved the meeting times at the BZA, and the meetings have become longer. As such, this is something that he is hesitant about.

Ms. Dessauer commented in her opinion the meeting time should be moved up due to the length of the agenda and how late the meetings are currently running. Mr. Foreman commented Mr. Salatas and

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Ms. Kuzma are now with the Town and have plans on making the meetings run quicker and smoother by being more organized.

Mr. Wilkening advised the Plan Commission to consider moving the time to 6 pm and they would vote on it at the public meeting. Mr. Salatas stated only the Work Session meeting time would be moved. It was discussed by multiple members the Public Meeting time cannot be moved due to the Unsafe meetings occurring at 6 pm.

Ms. Dessauer asked if the Unsafe meeting time could be moved to 5:30 pm. Mr. Oliphant advised there had been an attempt to move the Storm Board meetings to 5:30 pm, and it received a lot of backlash from the public.

## **12. Monastery Woods North Subdivision**

Mr. Wilkening stated the next order of business was for Monastery Woods North Subdivision. Mr. Oliphant advised the letter included highlighted some changes from the old developmental standards to current developmental standards because the original subdivision was approved in 2007. There has been changes in the Ordinances since the initial approval.

Mr. Wilkening asked Ms. Kuzma if she could send the letter of updates from Mr. Oliphant to the Plan Commission. Ms. Kuzma responded in the affirmative.

Mr. Wes Morin, Accent Homes, advised he brought the full engineering plans with him to the meeting, if they were wanting to view the plans. Mr. Wilkening stated to give the copy of the engineering plan to Mr. Oliphant. Mr. Oliphant responded they have a copy of the engineering plans.

Mr. Wilkening asked the Petitioner if they had constructed the first portion of Monastery North. Mr. Morin responded that was done by builder V3. They purchased the rest of the lots and had done the extension on 127<sup>th</sup> Avenue where it was left off.

Mr. Foreman stated he felt that Monastery North had too small of lots and whatever had previously been developed along the north side would be expired. They should review the plans and evaluate if the subdivision should be redone. The lots are too tight in the subdivision and they need to obtain variances if they want to do anything on their property such as a deck or a pool. Mr. Oliphant advised the average lot size for the neighborhood is 80 feet by 117 feet. Discussion ensued regarding the first phase of the subdivision's lot sizes and elevations and the necessity of variances needed for the first section of the neighborhood.

Ms. Dessauer asked Mr. Morin what they were proposing. Mr. Morin responded they are looking to continue the development on the northeastern corner of Carey Street. Ms. Dessauer asked how many lots were going to be included in this section. Mr. Morin responded it is approximately 50 lots. Mr. Oliphant stated there are approximately 100 lots total left for both sections of the subdivision.

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Mr. Wilkening asked what was between the northeast and northwest portions of the subdivision. Mr. Oliphant responded it was an Outlot that was platted during the first phase of the neighborhood, which is currently owned by Monastery Woods Homeowner Association, and the area is considered wetlands.

Mr. Wilkening asked Mr. Morin if he is discussing the northeast side of the Outlot. Mr. Morin responded in the affirmative. Mr. Oliphant asked Mr. Morin if they own both portions of the neighborhood. Mr. Morin responded in the affirmative.

Mr. Foreman further discussed if they look at the current homes in that neighborhood if they want to do an improvement, such as a deck, the deck is small and there would be no yard left. Mr. Foreman suggested bringing the new portion closer to the road since the neighborhood dead ends. Discussion ensued regarding the standard lot size for a single-family home and the setbacks.

Ms. Dessauer asked Mr. Morin what lot sizes they were anticipating for the subdivision. Mr. Oliphant commented one of the reasons for Mr. Morin being present is they are looking at extending the Preliminary Plat of Monastery Wood. There are design drawings from the original developer that has the design and engineering. There is a lift station already put in, and it was originally approved in 2008. Discussion ensued regarding the history of the development, the developer going out of business, and Accent Homes looking to finish the development.

Mr. Morin advised they were going to do two phases, one off of Hess Street and the other off of Carey Street and both sections will have a cul-de-sac in the north portion of the subdivision. They were looking at keeping it similar to the previous design. However, they were looking at changing some of the lot sizes to help improve some of the points previously discussed. He has not had a chance to fully review the plans yet to view the lot sizes.

Mr. Austgen stated one of the reasons Mr. Morin is present is to evaluate and address wastewater and connection of sanitary sewers, as well as looking for remedial steps to be taken related to discharges, which are similar to issues the Town is facing. The continued development is part of a solution to the Town.

Mr. Foreman suggested having this on the May Work Session agenda for further discussion. Mr. Wilkening commented on the same and advised Mr. Morin to have additional information for the property. Mr. Morin asked about the deadline to have everything in by for the May Work Session. Mr. Wilkening advised him the Friday before the Work Session by noon.

**Update Items:**

**1. Henn – 13212 Wicker Avenue – Performance Letter of Credit Expires May 21, 2022**

Mr. Oliphant advised they are working on the as-built review for the Performance Letter of Credit for Henn. There may be a concern with the deadline. Mr. Wilkening discussed there needing to be screening done to the west of the property. Mr. Oliphant advised it is not up yet, but they did post a yard bond.

## **2. Hanover Community School Corp – Performance Letter of Credit Expires May 24, 2022**

Mr. Oliphant discussed the Hannover Community School Corporation may need an extension on their Performance Letter of Credit. Mr. Salatas stated Hannover Community School Corporation is questioning why the Performance Letter of Credit needs to be extended. Mr. Oliphant responded public improvements are not complete.

## **3. Lakeview Business Park Development Plan**

Mr. Wilkening asked if the Lakeview Business Park Development plan is forthcoming. Mr. Austgen responded in the affirmative. There had been some issues with water utility extension reimbursement. Water is now in place. Mr. Wilkening asked if this was going to prevent any further improvements. Mr. Austgen advised it should not prevent any. They will be a meeting in a couple of business days and the project is ready to go.

Mr. Jack Huls advised they filed for Final Plat for the June meetings.

**PUBLIC COMMENT:** Mr. Wilkening opened the floor for public comment.

Mr. Ken Puent, representing Cedar Lake United Methodist Church, stated they have a request to come before the Plan Commission for Final Plat of their One Lot Subdivision. Their surveyor should have given response to Mr. Oliphant's letter to all but one of the questions. He was present to answer that question, which is concerning signage. The variance they received allowed for two signs on the property. They had looked at moving one of the signs closer to the corner of 137<sup>th</sup> Place and Morse, but decided leaving the sign where it is currently located.

Mr. Wilkening asked for further clarification on the variance. Mr. Puent advised the variance was for the second sign, which will be above the awning of the food pantry. That sign will not be lit or have any electronics.

Mr. Oliphant advised he has not received a Final Plat and the comments are from the letter they sent three years ago. He will check with the surveyor to see if they sent the Final Plat.

Mr. Oliphant asked if this was on the Public Meeting agenda for the Final Plat. Ms. Kuzma responded in the negative. Mr. Puent stated they had received Preliminary Plat extension at the last Public Meeting and were hoping to receive Final Plat at the next Public Meeting.

Mr. Foreman advised Ms. Kuzma to put Cedar Lake United Methodist Church on their Public Meeting agenda for Final Plat.

Mr. Austgen asked if it was known when the school submitted their paperwork. Ms. Kuzma responded there had not been an application filed. As such, when they submitted their application, she viewed it as a new application. However, she was not aware of the extension they were given.

Mr. Wilkening stated the school changed the plans, which is why he had heard Mr. Oliphant comment the school would need to refile. Mr. Oliphant clarified the legal description would need to be updated because the initial application would not have had the new lot.

Ms. Kuzma advised that it did not appear that the legal description changed on the new submission and asked if it could be reviewed. Mr. Oliphant responded in the affirmative.

Mr. Wilkening asked if Ms. Kuzma has the documents submitted. Ms. Kuzma responded in the affirmative and stated they submitted a roll of drawings, as well as a flash drive. There were quite a few documents submitted for the May Plan Commission, which she needs to put together. She intended on sending all of the May items for review in one packet.

Ms. Kuzma advised she had been informed by the engineer that they had not filed the petitions yet. When they discussed advertising, they informed her to continue with Preliminary Plat and they would do the Rezone later. Discussion ensued regarding if the legal description it is corrected or not.

Mr. Oliphant stated there had not been a promise made at the March 10 meeting for approvals in two weeks at the Public Meeting. Mr. Austgen commented on the same and stated there was discussion of making a strong effort to get it completed.

Ms. Kuzma stated she would send the documents to the Plan Commission.

Ms. Dessauer asked how the Shander Concept Plan is different from the Concept Plan on Morse Street. The family who had wanted to build on Morse Street, and looked for similar waivers as the Shanders for the road. There had been an ingress, egress agreement put together for them to access and take utilities to the property. Mr. Wilkening responded there had been waivers previously granted on Colfax and run with the land. Ms. Dessauer commented they were waived for a four-lot subdivision and asked how they have to honor those waivers. Mr. Austgen advised they did not, which is why the Petitioner is in front of them.

Mr. Oliphant advised the parcel in question had differences from the Shander petition. The property did not front on a public Right of Way, so they needed an ingress, egress across private property to obtain access to their property. They would not have needed to done any public improvement due to not fronting on a public Right of Way. They would have needed to get their utilities to the property. Whereas, with the Taylor Subdivision, the western property side is all public.

Ms. Dessauer asked why the waivers for the Shanders are okay when the Petitioners for the property being discussed could not receive those waivers. Mr. Oliphant advised they would have needed different waivers due to not fronting on a public Right of Way. As well, prior to the updated Zoning Ordinance, the Plan Commission denied applications that did not improve a public way. The updated Zoning Ordinance provides more leniency by not requiring a public way, and only requires an improved way to the property.

**ADJOURNMENT:** Mr. Wilkening adjourned the meeting at 10:03 pm.

**TOWN OF CEDAR LAKE PLAN COMMISSION**

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Jerry Wilkening, President

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John Kiepora, Vice-President

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Richard Sharpe, Member

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John Foreman, Member

---

Robert Carnahan, Member

---

Heather Dessauer, Member

---

Chuck Becker, Member

ATTEST:

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Ashley Abernathy, Recording Secretary

*The Minutes of the Cedar Lake Plan Commission Work Session 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 Plan Commission: Minutes of the Work Session April 6, 2022.*