



CEDAR LAKE PLAN COMMISSION WORK SESSION MEETING MINUTES
CEDAR LAKE TOWN HALL, 7408 CONSTITUTION AVENUE, CEDAR LAKE, INDIANA
September 4, 2024 at 6:00 pm

Call To Order:

Mr. Kiepura called the Plan Commission Work Session to order on Wednesday, September 4, 2024, at 6:00 pm with its members attending on-site. The Pledge of Allegiance was said by all.

Roll Call:

Members Present via Zoom: Jeff Bunge, Town Manager

Members Present On-Site: Chuck Becker; Greg Parker; Robert Carnahan; James Hunley; Heather Dessauer, Secretary; Jerry Wilkening, Vice-President; and John Kiepura, President. A quorum was attained. **Also present:** Don Oliphant, Town Engineer; David Austgen, Town Attorney; Tim Kubiak, Director of Operations; and Cheryl Hajduk, Recording Secretary.

Absent: None

Mr. Carnahan spoke about September 11, 2001 before the meeting started and the flag that was donated to the Town with the people's names on it that lost their lives.

Old Business:

1. 2023-02 – Monastery Woods – 1-year Extension of Preliminary Plat

Owner: New Century Development, 2036 West 81st Avenue, Suite B, Merrillville, IN 46410

Petitioner: Olthof Homes, 8051 Wicker Avenue, St. John, IN 46373

Vicinity: 9727 West 129th Avenue, Cedar Lake, IN 46303

Mr. Kiepura stated the first order of old business is for a Petition requesting a one-year extension of the Primary Plat for Monastery Woods North.

Mr. Kevin Paszko, Olthof Homes, 8051 Wicker Avenue, St. John, IN, commented we would like to get a one-year extension for the Primary Plat for Monastery Woods, Phase 3. This phase is for 87 units on 80-foot R-2 lots and would complete the remaining portion of the Monastery Woods subdivision on the far northside of the project. This was initially approved at the September 20, 2023 meeting and was valid for one-year or until we had a Final Plat, which would automatically extend the expiration date by one-year and that did not happen. We hope to begin the project this year, but it is on hold due to the development moratorium.

Mr. Carnahan asked what kind of houses are going to be in the subdivision. Mr. Paszko commented traditional, single-family detached homes.

Mr. Carnahan commented we have a water problem on the west side of the lake and some of our council members and engineers will be going to the Indiana Department of Environmental Management to discuss the water issue.

2. 2023-22 Bank Shots Bar & Grill Preliminary Plat

Owner: Joe Lopez, 3285 Glenwood Dyer Road, Lynwood, IL 60411

Petitioner: Adam McAlpine, 398E 400N Valparaiso, IN 46383

Vicinity: 8120 Lakeshore Dr., Cedar Lake, IN 46303

Mr. Kiepura stated the next order of business is for a Petition requesting a Preliminary Plat for a bar and restaurant renovation project to include new parking lot, perimeter sidewalk, storm sewer system, and landscaping.

Mr. Joe Lopez, 3285 Glenwood Dyer Road, Lynwood, IL, Adam McAlpine, 398E 400N Valparaiso, IN, Adam Sworden, 337 W. 806 N., Valparaiso, IN, commented Mr. Oliphant has provided us with a review letter and we are working through the comments and revised plans for continued review. We may not be in a position to vote on this in two weeks, as we are working through the review comments. We would like to request a design waiver on Foster Street from the Town Standards to not put in a sidewalk along Foster Street and limit the sidewalk along Lake Shore Drive.

Mr. Kiepura asked why should the sidewalk be eliminated. Mr. Sworden commented it would not adjoin a sidewalk, there is a telephone pedestal there, but Lake Shore Drive has a curb and gutter that would serve a good purpose for motorists and would direct them to Foster Street, which would be the entrance. We would like to propose that the right-of-way be dedicated to the Town as it is shown on the Plat, but without a sidewalk being constructed. The only reason is that this is a tight site and the number of sidewalks, if we were to slide the sidewalk further east into this site to eliminate or not would be in conflict with those items to create a grass parkway, which would pinch the site even further.

Mr. Carnahan commented we put an underground storm drainage unit in at the site. Mr. Oliphant commented that was part of the Capital Improvement Plan years ago. Mr. Kubiak commented it is where Foster Street is. Mr. Oliphant commented it is abandoned after we did the Shades project in 2011. Discussion ensued. Mr. Oliphant commented it is on their existing survey and they are proposing an underground detention South of it.

Mr. Wilkening asked how many feet of sidewalk are they wanting to be waived. Mr. Oliphant commented less than 140 feet. Ms. Dessauer commented she doesn't understand why we are talking about waivers when we have an 8-page report from our Engineer. There are more important things to talk about. What is the time frame. Mr. Sworden commented we would be coming back to the next work session.

Mr. Parker commented it is a challenging site and you need every square inch of parking that you can get.

Mr. Sworden commented this conversation is important, because it will help to know what will be accepted with the Town.

Mr. Parker commented if the sidewalk goes in, people will be parking on it. Mr. Sworden commented we will create a grassy strip along there where there is pavement today with a proposed entrance. Discussion in length regarding needing a sidewalk or not on Foster Street.

Mr. Wilkening commented the grass is pinching everything and he would rather see the grass going in the sidewalk. You can work the sidewalk around the utilities without getting crazy and understands the concern. Mr. Oliphant commented it came up in the review, because there are two utility poles there on that corner. We questioned why the Foster Street sidewalk is eight and a half feet wide and that was maintaining the

poles existing location, which we would not allow. Utility relocation is on the developer of the property and they would have to move it. Mr. Oliphant commented it will be elevated. Discussion ensued.

Mr. Oliphant commented he thinks we lost two spaces, because of where the existing well is located and this was in the proposed handicap parking area. Discussion ensued regarding the well.

Ms. Dessauer asked what are the list of Variances. Mr. Oliphant commented parking in front yard, every building setback on the property. The footprint will stay the same. There may be some building square footage issues.

Ms. Dessauer asked is there a parking space Variance still. Mr. Oliphant commented they will not meet it. Mr. Sworden commented we need a space per employee and a space for patron. Mr. Oliphant commented it is restricted based on their tenant maximum occupancy. Discussion ensued regarding parking issues.

Discussion ensued regarding when will this Petition be finalized.

Mr. Wilkening asked about the five-foot utility easement that is north east of the new dedicated Lake Shore Drive including the utility pole and overhead lines, is this where the sidewalk was going to go. Mr. Sworden commented it was going to go beyond the yellow line that is on the Site Plan.

Mr. Wilkening commented what he needs to see before waiving the sidewalk would be the exactly the problem right there. Mr. Oliphant commented the pole is in the middle of the sidewalk. Discussion ensued regarding the pole and going further into the site.

Mr. Parker commented you can only get so much in there for a modern standard and that doesn't make sense. This is a hurdle that they should not have to overcome and it keeps us from getting what we want here.

Mr. Oliphant asked has there been a Board of Zoning Appeals application formulated about what Variances are needed. Was Town staff communicated to what is needed. Mr. McAlpine commented there needs to be a benchmark start from having the sidewalk or parking that was originally proposed to eliminate that issue over there, which addresses the parking issue and eliminating a sidewalk solution was something that we didn't want to do as a Plan Commission, so we went back to square one starting over and now we are looking at a sidewalk issue and now that does not make any sense. Mr. Oliphant commented this would be an engineering waiver more than a Board of Zoning Appeals Variance. Any kind of approvals have to be dependent on Board of Zoning Appeals approving the Variance.

Mr. McAlpine commented we started this out as a Planned Unit Development, because in order for them to serve alcohol they have to have a Variance for that and because of all of the constraints and issues. Once we got the parking issue, driving the metric for occupancy, and there wasn't going to be any concessions on the size and dimensions on parking spaces and we went through the Planned Unit Development and we would just submit the Variances. We then get back to the sidewalk facing a number of spaces, but the number of parking spots they get from the Town Code was driving the occupancy, so we've already agreed to that, whether it be 10 spaces or 15 spaces, it doesn't matter.

Mr. Oliphant commented we think it is further along on the Engineering Plan that it is not going to change a lot to know what the Variances that are going to be needed. The process has to start. Mr. McAlpine commented in the two years, the egress and ingress of everything coming in from that site, and it drives the design, because we are closing off everything at Lake Shore Drive, so the benchmark is to figure out what

to do on Foster Street. Another waiver may be a pinch point in the back at the back northeast corner of the building for the two-way traffic.

Mr. Carnahan commented it seems like most of us are willing to waive the sidewalk on Foster Street.

Mr. Kiepura commented we cannot go any further unless we have an updated Site Plan and with everything that is going to be done.

Mr. Hunley asked how many parking spaces will there be. Mr. McAlpine commented 15 spaces. Discussion ensued.

Discussion ensued regarding what Mr. Lopez is going to start tearing down on the building.

3. 2024-05 StorSafe – Final Plat (make it legal lot of record) (Preliminary previously approved)/ Site Plan approval

Owner/Petitioner: StorSafe of Cedar Lake LLC, 5301 Dempster St. Suite 300, Skokie, IL 60077

Vicinity: 13649 Wicker Avenue, Cedar Lake, IN 46303

Mr. Kiepura stated the next order of business is for a Petition requesting a Site Plan approval with a Developmental Commitment Contract and Final Plat approval.

Mr. Jim Sayegh, Chief Development Officer, StorSafe of Cedar Lake LLC, 5301 Dempster St. Suite 300, Skokie, IL 60077, commented our Attorney, Dave Westland is of counsel and he was to make redlines to the Development Commitment that are responsive to what we have heard from the last Plan Commission Meeting. The changes are: the expiration date of the parking has been revised from 2039 to 2034. The concept of parking rights expiring in ten years rather than 15 years.

Mr. Austgen stated Attorney Westland sent a revised Commitment form and we have been reviewing it and comments will be going back to their Attorney.

Mr. Sayegh commented the second item is: assign a fine for everyday that a violation was occurring, which would be every day after December 2034 in the amount of \$100 per day. This would be for Mr. Austgen to comment on and for the Plan Commission to decide. The third change was the concept of, if a residential development gets approved and executed, on the northern bound property, we will be required to make the fence opaque.

Mr. Parker commented the Notice of Intent that has to be presented to IDEM for the water because of the current situation with the water. There is a well there already and they do not need much water, but a NOI will be needed, but in this instance, if they are not adding and will run the water line for the Town, does he still have to be forced to be connected to the water because of that. Mr. Austgen commented he does not have the answer to that. Mr. Oliphant commented you cannot force anyone to hook up to a water main. Discussion ensued regarding the NOI.

Mr. Sayegh commented in the process of the building permit and not in entitlement, we will sort out what bonding we need. Mr. Huls commented water main Notice of Intent or permits is one mechanism that IDEM uses and those are for water main extensions. We were originally going to connect at Osbourne Street and run through the project and get some water at the frontage on Wicker Avenue and that was not part of this Site Plan, but it was part of the Primary Plat for the subdivision and it was an infrastructure that was going in and is a public infrastructure and that is why it needs a permit. We have been asked to put it into the

public right-of-way of Wicker Avenue, because of the parcels that are to the South are unincorporated and we are working with INDOT regarding that. The whole process of permitting of a function of the Primary Plat process and not part of the Site Development. This site has a well and does have a single restroom facility that will be removed, because the whole business is on the line.

Mr. Parker asked will there be a fire hydrant there. Mr. Huls responded in the affirmative. There is also a fire hydrant at the end of Osbourne Street, which provides fire protection to the back portion of the site. As it relates to the public improvement, similar to any other type of subdivision that was approved in Town, there is a Letter of Credit that assured per Performance of the work that was approved during the Primary Plat and Mr. Sayegh is more than willing to provide that Letter of Credit for the water main improvements and once they are permitted, they will install it and then a Maintenance Bond will be put in place.

Ms. Dessauer asked what is the development to the North and is that outlined. Mr. Sayegh commented it is everything, but the house that is in front and the chance of this happening is very remote. The border has to be defined at the North. Mr. Huls commented there is a house at the front and it is zoned commercial and Storsafe will provide the screening fence as it were residential. It is the wooded parcel that lies to the North, which is currently zoned residential. Discussion ensued regarding residential use.

Ms. Dessauer asked if Mr. Austgen was going to be ready in two weeks for us to vote on this. Mr. Austgen stated probably and the Commission will have a red-lined version in the next few days.

4. 2024-14 Neil Poplon Primary Plat

Owner/Petitioner: Neil Poplon, 9204 w. 143rd Avenue, Cedar Lake, IN 46303

Vicinity: 9212 W. 143rd Place, Cedar Lake, IN 46303

Mr. Kiepura stated the next order of business is for a Petition requesting a one lot subdivision.

Mr. Jack Huls, DVG, Inc., representing the Petitioner, commented this is a metes and bounds parcel right now and the Ordinance requires we go through a subdivision process. We were here a month ago, because the process is a three-step process. The Primary Plat was submitted for consideration and we have sanitary sewer permanent to get the service to the road North of us. It was discussed that the Town would like certain rights to that easement. We are asking for waivers and we would like to be heard at the next meeting to make it a legal lot of record.

Mr. Oliphant commented we received the documents and we will be looking at everything.

Mr. Kubiak asked the Site Plan shows the house all the way to the back of the property. Mr. Huls commented that is an existing shed back there.

New Business:

1. 2024-16 V&L Plumbing, Inc. – Site Plan

Owner/Petitioner: V&L Plumbing, Inc., 9621 N. Industrial Dr., St. John, IN 46373

Vicinity: 13791 Alexander Street, Railside, Lot 23, Cedar Lake, IN 46303

Mr. Kiepura stated the first order of new business is for a Petition requesting a Site Plan for a new business in Railside, Lot 23.

Mr. Jack Huls, DVG, Inc., commented we received a review from Mr. Oliphant and we feel that everything is in order.

Ms. Dessauer asked does this meet all of our requirements. Mr. Huls responded in the affirmative.

2. Request of Waiver - Oak Brook, Phase 1 and Beacon Pointe, Unit 5 (West)

Owner: Cedar Lake 133, LLC, P.O. Box 677, St. John, IN 46373

Petitioner: Schilling Development, P.O. Box 677, St. John, IN 46373

Vicinity: Oak Brook, Phase 1 and Beacon Pointe, Unit 5 (West)

Representative: Jack Huls, DVG

Request: Petitioner is requesting a waiver from the Development Standards to place surface asphalt before 80% occupancy has been reached in both Oak Brook, Phase 1 and Beacon Pointe, Unit 5 (West)

Mr. Jack Huls, DVG, Inc., asked if we can divide these topics and we will discuss Oak Brook, Phase 1 first. All of the lots have a building started on them. Most have landscaping installed and driveways are in. The Ordinance states that 80% of Certificate of Occupancy and we have about 45-days to finish these units out, which puts us into the middle of October, but we have exceeded 80% with the rough treatment of the pavement. We are asking for a waiver from the Ordinance that we can schedule final surface coat to go down on this portion of the subdivision ahead of the 80% requirement this year.

Mr. Huls commented on Beacon Pointe West, Unit 5 is similar. Mr. Oliphant stated the flat work should be done before paving. There are four duplex units that do not have driveways right now.

Mr. Huls commented we cannot convert from Performance to Maintenance until we final surface coat. We will be back in November to request to convert from Performance to Maintenance for a three-year Maintenance Bond covering all of the work.

Mr. Wilkening asked will Beacon West be more complicated. Mr. Huls commented it is a single-family development as opposed to Oak Brook. There are 28-lots, and one of them is the barn, and we are requesting that not be in the percentage. We are at 77.77% as of right now. We would like to get the road paved and final surfaced, so that the people do not have to put up with an unpaved road in the winter.

Mr. Kiepura commented we can convert to Maintenance until they are built out. Mr. Oliphant commented that most likely where the revised Development Standards Manual is going to go. There are pros and cons to the 80% rule. It is a benefit to the Town to keep it in Performance so we are not damaging it. We also have a stormwater component that is not the best, because a lot of water is collected against the curbs. We will allow them to put the surface down quicker than normal, but it will remain in Performance until they hit the 80%.

Update Items:

1. Cedar Lake Storage

Mr. Kubiak commented it is closer to being finished. All of the piping is in and the stone is being graded.

Mr. Chris Porter, 405 North Lafayette Street, Griffith, IN, commented the delay of the drains is what caused us to not get it paved. They are installed and there is still some final grading to be completed. Site Services will be out next week.

2. Beacon Pointe East, Unit 1, Detention Pond Update

Mr. Jack Huls, commented this has been a lengthy process and the seeding on the side slopes is being done today. Mr. Huls distributed pictures of the progress of the detention pond. We should be completed with the project in two weeks. Mr. Carnahan commented the pond was deepened and when it was going from the South to the North, how much did that lower the water in the southern portion. Mr. Huls commented it did not lower. Mr. Oliphant commented it did go down 18-inches, but when it rains, it will fill up back to the normal level.

Mr. Carnahan asked if a fountain will be put in at the north end. Mr. Huls commented we will be moving the existing fountain more toward the North and see if that works.

3. Rose Garden Estates, Unit 1 – PLOC expires October 11, 2024 - \$6,067,696.25

Mr. Oliphant commented they are working on it. They will want another six months. Ms. Dessauer asked if a representative can be at the next meeting. Mr. Austgen commented we can.

4. Cedar Lake Storage – PLOC expires October 20, 2024 - \$113,181.48

Mr. Oliphant commented this will not have a maintenance period.

Tabled:
2023-18 Bay Bridge
2023-19 Founders Creek
2023-20 Red Cedars

Public Comment:

Mr. Bob Grosek, 14055 Deodor Street, commented on behalf of the people involved at Beacon Pointe, we would like to thank the Board for being diligent and getting the issue with the drainage fixed. We would also like to thank Schilling Development and Mr. Don Oliphant, Mr. Jack Huls from DVG, Inc.

Mr. Grosek commented regarding Bugaboos' parking area and it is very unsafe. They are parking cars where you cannot see anyone in the walkway. Someone may get hurt in this area.

Ms. Angie Mikolajczak, 12806 Lee Court, commented this Board discussed a request for no sidewalks to leading to nowhere and not be required due to utility placement. Where would a residential property owner be directed to request a sidewalk leading nowhere not be required due to a utility placement.

Mr. Parker commented he needs more information. Ms. Mikolajczak commented she has a sidewalk in front of her property that leads into a drain, which is a utility that she would like removed and should not have been there. Mr. Kubiak commented since the situation on the other side of the cul-de-sac is the same as hers, it can be removed and not have to put back because it goes down to a catch basin and it doesn't need to be there. Discussion ensued regarding removing pieces of the sidewalk and the catch basin.

Ms. Mikolajczak commented there was a complaint by the builder who lives two doors down stating our jeep was blocking the sidewalk and Code Enforcement gave a written warning for this.

Mr. Parker asked Mr. Kubiak to remove the pieces of the sidewalk. Discussion ensued regarding who owns sidewalks in the Town.

Mr. Parker commented in the interest of public safety, there is a sidewalk that goes into a drop off and a manhole. This is a safety hazard.

Ms. Mikolajczak asked does she need a sidewalk by the driveway. Mr. Parker commented “no.” More discussion ensued regarding the sidewalk and how it needs to be removed due to a safety hazard.

Mr. Kubiak commented about the house close to the property line by Huseman Street, the surveyor had the house laid out improperly on the property, and he would like the Board to move towards us requesting all Variances given for minimal side yards through the Board of Zoning Appeals that an as-built foundation survey is required. Mr. Parker commented the Board of Zoning Appeals needs to understand that somebody wanting to build a house on a small lot is not a hardship.

Mr. Kubiak commented if someone comes in for a five-foot side yard, the burden is on that person building that house with the five-foot side yard providing an as-built survey showing that the foundation was put in with a five-foot side yard before they pass that point in the project in keep moving forward. Discussion ensued.

Mr. Wilkening asked what needs to be tweaked as far as language. Mr. Austgen commented the custom practices of the BZA in considering petitions before them. We have our rules and regulations and we upgrade to clarify or describe or identify in some fashion in those rules and regulations, the Policy and Practices of Cedar Lake and its Boards.

Mr. Wilkening asked can the Plan Commission create a requirement for an as-built foundation. Mr. Austgen stated we can by a process. Discussion ensued regarding Variances and hardships.

Mr. Austgen commented hardship is all over caselaw and the only thing that gets litigated in Developmental Variance or Use Variance is the hardship, because it is an eye of the beholder comparison against what community has done and approved in the past. The reason the Board of Zoning Appeals exists is to adjudicate all of that what can't be said, but can be seen. Discussion ensued.

Ms. Dessauer commented this is a unique community and a lot has to be up to judgment.

Discussion ensued regarding the surveyor report with the house near Huseman Street.

Mr. Austgen commented this will be an amendment to the Zoning Ordinance and a recommendation to the Town Council.

Mr. Terry Broadhurst, 14513 Morse Street, commented Mr. Kubiak had a great suggestion and to solidify this so it doesn't happen again. What are the parameters of hardship and when does it go to the Town Council.

Mr. Kiepura commented the Board of Zoning Appeals can be overwritten by the Town Council. Mr. Broadhurst asked the BZA is the final decision on a Variance. Mr. Kiepura commented “no” and that it is the Town Council depending on what it is.

Mr. Austgen commented Developmental Variances are an exclusive jurisdiction to the Board of Zoning Appeals and Variances of Use are advisory and public hearings are held before the BZA with that application certification is made of the recommendation by the BZA to the Town Council. The Town Council makes the final decision. Discussion ensued regarding hardships.

Mr. Austgen commented about Storsafe and Mr. Sayegh talked to us about our completion of our work and responsibilities. My responsibility to the Board and to the Town is to make sure things are right. There is a

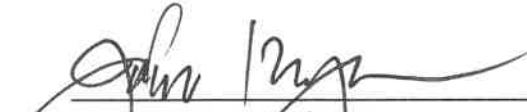
proposed written commitment from the Petitioners that outlined what they propose and commitment conditions to an approval for them of their Plat and Site Plan approval. We then received an email from their attorney with a revised proposed written commitment. The dialogue shifted and it's a negotiation form of commitment or term of the approval process. This discussion has neared its completion and the document has been cleaned up and is coming to the Plan Commission for review. The process for this document is a recordable instrument that contains terms and conditions that are satisfactorily clear, unambiguous and enforceable. At some point, it may be needed. If it isn't needed, this is what he is preparing the Town for. This is a negotiation form of discussion and not necessarily for their presentation. There is engineering being discussed, so it is all a process.

Mr. Austgen commented the trip to Indianapolis is an important trip dealing with IDEM and where we stand. It will be the first steps on a journey and that we have work to do. It will include a lot of discussion with the engineers, IDEM, staff and with our own work activities about what we have and what need to do and where we need to go and get it done. If there are developers and property owners and land developers that are looking at this, but we need to look at it also.


Mr. Parker commented nobody has a clear understanding of what we need for expansion and storage and upgrades to the water utility on both sides of the Town. We do not know what IDEM is going to require of us until we have the conversation.

Adjournment: Mr. Kiepura adjourned the meeting at 8:08 pm.

TOWN OF CEDAR LAKE PLAN COMMISSION



John Kiepora, President



Jerry Wilkening, Vice-President



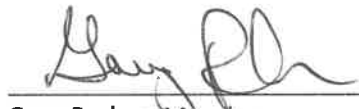
Heather Dessauer, Secretary



James Hunley, Member



Robert Carnahan, Member



Greg Parker, Member



Chuck Becker, Member

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 September 4, 2024