



CICERO/JACKSON TOWNSHIP PLAN COMMISSION

Board of Zoning Appeals Agenda October 17th, 2024 7:00 p.m.

Roll Call of Members

Present:

- Scott Bockoski - Chairman
- Mike Berry
- Harrison Massone
- Mark Thomas
- Steve Zell
- Aaron Culp - Legal Counsel
- Frank Zawadzki - Cicero Jackson Township Planning Director
- Terri Strong – Recorder

1. Declaration of Quorum

2. Approval of Minutes
September 19th, 2024

3. Old Business:
Rules of Procedure
Approval of findings of facts

4. New Business:
Petitioner: Garry Harling
Property Address: 169 W Buckeye Street, Cicero, IN 46034
Docket#: BZA-1024-44-R5

A Development Standards Variance application has been submitted regarding the property located at 169 West Buckeye St, Cicero IN, 46034 seeking relief from Article 3.12 “R5” District Standards which states that side yard setbacks shall be five (5) feet.

Petitioner: David & Leah Cupps
Property Address: 67 Hickory Ridge Circle, Cicero, IN 46034
Docket#: BZA-1024-45-R1

A Development Standards Variance application has been submitted seeking relief from Article 7.22 of the Cicero/Jackson Township Zoning Ordinance which states; The primary building material for all facades of the Primary and Accessory Structures are to be brick, natural or cut stone.

1. Plan Director’s Report: See packet.
2. Chairperson’s Report:
3. Legal Counsel’s Report:
4. Board Member Comments:
5. Next Planned Board of Zoning Appeals Meeting:
November 21st, 2024
6. Adjournment:

Location:
Cicero Town Hall
70 N Byron Street
Cicero, IN 46034



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TOWNSHIP
PLAN COMMISSION**

**Board of Zoning Appeals Agenda
September 19th, 2024
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Roll Call of Members

Present:

- Y Scott Bockoski - Chairman
- Y Mike Berry
- Y Harrison Massone
- Y Mark Thomas
- Y Steve Zell
- Y Aaron Culp - Legal Counsel
- Y Frank Zawadzki - Cicero Jackson Township Planning Director
- Y Terri Strong - Recorder

1. Declaration of Quorum- Chairman Bockoski declared a quorum with 5 members present.
2. Approval of Minutes
Mr. Zell made motion to approve minutes from August 8th, 2024, meeting. Mr. Berry second. All present in favor.
3. Old Business:
Nomination of BZA Secretary was discussed.
Mr. Massonne nominated Mr. Zell for secretary. Mr. Thomas second. All present in favor.
4. New Business:
Petitioner: Gary Watson/Second Base Properties LLC
Property Address: 1300 Bayswater Lane, Cicero, IN 46034
Docket#: BZA-0924-42-R3

A Development Standards Variance application has been submitted regarding the property located at 1300 Bayswater Lane, Cicero IN, 46034 seeking relief from Article 3.8 "R3" District Standards which states that impervious surface cannot exceed 45% of the Lot Area.

Gary Watson 1300 Bayswater Lane, Cicero. Plan is to extend east side of original house, with the setback restrictions on peaks, would be looking at a 9-10 feet extension with a 12x12 entry, door on the side. Pictures used to describe; a porch would be added as well. Surprised at the 45% restriction, have quite a bit of yard in the front and side. And the lake side have greenspace headed to the lake. Chairman Bockoski stated while understanding the surprise, in place for larger lots to be able to have green space and not be filled with drives, etc. Thank you for going thru the process, materials submitted are very detailed. Chairman Bockoski asked for questions. Mr. Zell echoed very thought-out plans and detailed. Mr. Watson stated he did talk to the neighbor across the street concerned about messing up his view, neighbor did not have issues with plans. Mr. Zell asked if approval when construction would start and how long expected. Mr. Watson stated Zeb Pickett is contractor, plan would be end of October for foundation and outside structure, with inside being over winter. Mr. Watson stated from someone going past, would think before snow flies. Chairman Bockoski questioned space where red vehicle was parked, is that a common area and it is a filled lot on weekends. Mr. Watson stated yes it is. As a weekend resident do not want to cause conflict with neighbors. Chairman Bockoski questioned, running business or adding any lighting. Mr. Watson stated no to business, flood lights on porch. Currently have lights on either side of garage doors. Courtyard type of look between house and garage. Discussion on other options considered.

Mr. Massonne made motion to open public hearing. Mr. Zell second. All present in favor.

David Small 1320 Bayswater Lane, to the west of this property. We are for this project, going to enhance the neighborhood, and improve the property values to the area. Happy the property is being invested in.

Mr. Zawadzki read letter from Brett Ravenscroft 1260 Bayswater Lane. Support the petition.
Letter added to file.

Doug Bergman 1269 Bayswater Lane, not seeing information on added drainage for the added roof, and last time anything done, messed up our lot and didn't clean it up. Keeping debris on his property. Questioned the property line compliance.
Mr. Zawadzki answered will meet the setbacks for the area, six feet from the property line.

Mr. Bergman stated would be right on the line. Mr. Zawadzki stated if not requesting a variance would have to meet the standards. Chairman Bockoski stated the variance is for lot to have more surface than allowed. Mr. Bergman stated there are drainage issues in the area. Also added when doing work prior, threw items down the hill, never cleaned up. Don't want that to happen again.

Mr. Massonne made motion to close the public hearing. Mr. Zell second. All present in favor.

Chairman Bockoski asked Mr. Zawadzki about any drainage issues. Mr. Zawadzki stated not aware of any issues currently in the area, but anything built would not be allowed to impact others. Will have to meet the standards. Chairman Bockoski questioned the process. Mr. Zawadzki stated the Utility Department does that inspection prior to Certificate of Occupancy is granted. Chairman Bockoski addressed Mr. Watson asking what plans are for materials during construction. Mr. Watson stated he has not discussed this with Zeb but respect he is an experienced builder and expect front drive and yard would be used and would not interfere with us living there as we are not a full-time resident. Have plenty of space for materials and confidence in Zeb to do correctly. Mr. Watson stated he is willing to invest money to help clean up common area, stumps etc. Chairman Bockoski suggested stipulation would say materials must stay on your property, as well as Mr. Massonne stating timeframe for completion is typically one year are those things that can be agreed to. Mr. Watson agreed, would hope by springtime. Brief discussion on conditions.

Mr. Zell made motion to approve Docket No. BZA-0924-42-R3 as presented with the following conditions: all materials be properly placed on petitioners' property and no materials to be in the common area, also, petitioner would have one year to complete exterior portion of the project from time of approval. Mr. Berry second.

Mr. Bockoski -approve, Mr. Berry-approve, Mr. Massonne-approve, Mr. Zell-approve, Mr. Zell-approve.

1. Plan Director's Report: Mr. Zawadzki highlighted the report as follows. Permit revenue for August 2024 was \$8394 and YTD \$40782, compared to August 2023 of \$5135 and YTD 2023 of \$66900. That is an increase for month of \$3259 and a YTD decrease of \$26118 so far. Issued 22 building permits, 16 in Town limits, 4 new homes and additional 6 in Township, no new homes. Estimated cost of projects under these permits is \$2,152,535.
2. Chairman's Report: Chairman Bockoski welcomed Mr. Mark Thomas to the BZA Board.
3. Legal Counsel Report: Mr. Culp addressed a couple things. Sewer plant construction is underway, started in August expected to take 2-2.5 years. All in the area of the same plant, a mirror duplicate of the current plant. Estimate the plant should serve needs of community for next 20 years. Secondly, after months of working, got lease agreement signed to do test wells on the east side of town. Assuming testing goes well, have agreement to purchase land for well, which should provide enough water for next 20 years as well. Finally, seeing a lot of speculation on the former NRG property. This is in middle of an IDEM clean up. There was some contamination at the site, degreasers and items, arsenic (was an industrial property for 100 years). They are removing things from the area and initially wanted to leave the foundation, Town was concerned about this because if it sold the buyer would be responsible for cleanup. The estate determined to remove the foundation, which is what you are seeing now. Will continue to do the cleanup work for any chemicals in the soil. Property has not been sold, still owned by Ashton Sethi Trust. One other item, everyone received a copy of the Rules of Procedures, one item came out that will be reworded. This will be done and sent back out, it was under the disclosure of why a member would reclude themselves. Another thing in the rules is that permits must be completed in a certain timeframe and construction must be completed in two years of approval of a variance. Unless this Board approves otherwise. Chairman Bockoski asked if the paperwork could reflect that timeframe. Brief discussion ensued.
Mr. Zell questioned the survey of reorganization going around. Are those discussions ongoing in the Town Council meetings, if they could be discussed. Mr. Culp stated his understanding is that the Township would like to go forward with a referendum. The Town of Cicero remains concerned about which option is the best. There is a lot of financial questions, concerns on cost. Also, zoning is currently controlled by the Town, unlike Sheridan, so the urgency is not the same. They are exploring simultaneously the reorg and annexing options. Concern is the road maintenance becomes town responsibility, and the costs associated. Outside counsel has been retained to do this work. Anticipate solution next year.
4. Board Member Comments: Mr. Zell questioned if anything to report on the Millersburg situation. Mr. Zawadzki stated Mr. Strong did share concerns from last meeting. Contacted property owner, he has since gotten out with a mower and did a bunch of clean up. Followed up a week later, has sold six of the vehicles and cleaned up more of the fence line. There is another house, he owns that house as well, has a different plan for the property. Have discussed condemnation with Mr. Culp, however, do not have power for that. Mr. Culp explained the county has jurisdiction over that area. Mr. Taylor has been contacted by Mr. Culp for discussion purposes only. Mr. Zell also brought up the Yeary property, is there anything that gives us more leverage for that project to get completed. Mr. Culp stated since there wasn't language attached to the variances, there isn't much that can be done as long as he continues to do any work. Unless he comes for a different variance. Mr. Thomas questioned what property is being discussed. Mr. Culp stated on 19, was looking at a winery with sandwiches type of business but has gotten sidetracked with other projects.
Mr. Zell also thanked the Board for allowing him to continue to serve the BZA with his recent health issues. Appreciate being nominated for Secretary position. Mr. Zell also shared a recent commendation from the Sheriff Department and appreciate the highlights of this tough year, and living in this wonderful town and community.
Mr. Massonne asked if have heard anything more on the Wolly Yak petition. Mr. Culp stated heard approximately two weeks ago, they finalized the final record. This had to be done prior to moving forward. Last known time was January.
Mr. Culp stated he will get to everyone the revised rules on reclusion and would like to discuss next months.
Brief discussion on the Findings of Fact. Mr. Culp added that the agendas are now on the servlist system and posted on website.

5. Next Meeting: October 17, 2024

6. Adjournment: Mr. Massonne made motion to adjourn. Mr. Zell second. All present in favor.

Chairman: _____

Secretary: _____

Date: _____

Location:
Cicero Town Hall
70 N Byron Street
Cicero, IN 46034

331 EAST JACKSON ST. P.O. Box 650 CICERO, IN 46034
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DRAFT

Rules of Procedure
Board of Zoning Appeals
For Cicero/Jackson Township

Article 1 – GENERAL PROVISIONS

1. These Rules of Procedure are established in conformity to the Acts of the General Assembly of the State of Indiana. Title 36, Article 7, Chapter 4, and all acts amendatory thereof, and in accordance with the provisions of the Zoning Ordinance of Cicero/Jackson Township.
2. These Rules are supplementary to the provisions of the Zoning Ordinance of Cicero/Jackson Township, Indiana as they relate to procedures of the Board of Zoning Appeals.
3. In as much as the deliberations, opinions and findings of the Board in matters which may come before it for action are similar to those of a Court, and because the members of the Board should be free of external influences and pressures, unbiased and unprejudiced concerning the parties, evidence and arguments presented and submitted before the Board, no person may communicate with a member of the Board before the hearing with the intent to influence the member's action on a matter pending before the Board.
 - 3.1 This rule shall not apply to persons connected with the Board in an official capacity.
 - 3.2 In accordance with IC 36-7-4-909, a Board member may not participate in a hearing or decision concerning a matter in which the member has a direct or indirect financial interest. A member shall declare that he/she has a conflict of interest and is recusing himself/herself from participating in consideration of the matter. The member does not need to disclose the actual details of the conflict, only that one exists. Questions as to whether such conflict exists may be determined by the president or the Board attorney. When there is uncertainty as to the applicability of this section, the member shall be disqualified. The Board shall enter in its records the fact that its member has a disqualification. Members are expected to disclose any personal, nonfinancial interest in any matter before the Board, and may abstain from participation and voting on such matter. A member who has a conflict of interest shall leave the Board table. Such member may join the audience but may not give testimony on the matter before the Board. Nothing in this section shall prevent a member of the Board from presenting a petition on his/her behalf, but members shall not appear before the Board on behalf of others.
4. Nothing herein shall be construed to give or grant to the Board the power or authority to alter or change the Zoning Ordinance, including the Zone Map, which authority is reserved to the governing body.
5. The Board's Attorney shall be consulted in cases where the powers of the Board are not clearly defined.

6. A file of material and decisions related to each case shall be kept by the Boards staff as part of the permanent records of the Board.
7. The Boards of Zoning Appeals shall keep minutes of its proceedings and record the vote on all actions taken. All minutes and records shall be filed in the Office of the Board and are public record.
8. In the event there arises a question of an issue pertaining to a procedure which is not covered by these Rules of Procedure, then the Board of Zoning Appeals may resolve same in accordance with the Roberts Rules of Order.

Article 11 – OFFICERS AND DUTIES

1. The officers shall be a Chairperson, a Vice-Chairperson and a Secretary.
2. The Chairperson and Vice Chairperson shall be elected at the first regular meeting of the year. The Vice- Chairperson shall have authority to act as Chairperson during the absence or disability of the Chairperson. A temporary Chairperson shall be elected from the Board membership by the members in attendance at any meeting in case both the Chairperson and Vice Chairperson are absent.
3. The Chairperson shall supervise the affairs of the Board of Zoning Appeals. The Chairperson shall preside over all hearings and all persons shall abide by the orders and directions of the Chairperson. The Chairperson shall determine all matters concerning the procedure of each petition, and admissibility of evidence. The Chairperson shall be an ex-officio member of all committees and subcommittees so appointed by the board.
4. The Vice Chairperson, in the absence of disability of the Chairperson, shall preform all duties and exercise all the powers of the Chairperson.
5. The Secretary shall certify all official records of the board.
6. The Plan Director of the Cicero/Jackson Township Plan Commission shall act as the Administration Officer of the Board.

Article 111 – MEETINGS

1. Regular meetings of the Board of Zoning Appeals shall be held on the Thursday of the week, following the week of the second Wednesday. If said day shall fall on a legal holiday the Board may, by a three-member consent, fix an alternative day, time and place for the holding of a regular meeting without requiring an amendment to these rules. All members of the Board and the press shall be notified in writing of a meeting change.

2. Regular meetings may be cancelled by the Chairperson when there are no cases pending notification must be given to all Board Members and the press not less than forty-eight (48) hours prior to the time set for such meetings.
3. Special meetings of the Board shall be held at the call of the Chairperson, written request of two members, or as may be determined at a regular meeting. All members and the press shall be notified of the time and place of special meetings. Only matters included in the call for a special meeting shall be considered, except upon the unanimous approval of all members of the Board present at the meeting.
4. All meetings shall be open to the public.
5. A majority (3 members of the Board) of the total membership of the Board shall constitute a quorum. Action of the Board of Zoning Appeals is not official unless concurred in by a majority of the entire membership of the Board.
6. A quorum of the Board shall be present for the transaction of any business. On petitions where there is not a majority of the entire membership for the Board voting either in favor of or in disfavor of a petition or motion, and in the event no further motions are forth coming, the petition shall be carried over and continued to the next meeting of the Board.
7. An application may not be withdrawn by the petitioner after the vote has been ordered by the Chairperson. No application which has been withdrawn by the petitioner shall again be considered by the Board within a period of three (3) months from the date of said withdrawal, except upon the motion of a member, and adopted by the unanimous vote of all members present at a regular or special meeting.
8. Once an item has been denied, it may not be placed back on the agenda until one (1) year has passed from the date of the denial.

Article IV – ORDER OF BUSINESS

1. All meetings of the Board shall proceed as follows,
 - 1.1 Roll call and declaration of quorum
 - 1.2 Approval of minutes of previous meeting(s)
 - 1.3 Old Business
 - 1.4 New Business
 - 1.5 Plan Director Report

1.6 Chairperson's Report

1.7 Legal Counsel Report

1.8 Board Member Comments

1.9 Adjournment

2. An informational session may be called by the President and while this session is open to the public, no arguments will be heard from petitioners, or the remonstrators and no decision made.

Article V – POWERS AND DUTIES

1. The Board shall hear and rule on this following type of requests:

1.1. An appeal of a decision by the Director of other staff member

1.2 Variances from the Development Standards of the Zoning Ordinance

1.3 Land Use Variances as identified by State Statues

1.4 Special Uses as identified in the Zoning Ordinance

1.5 Make interpretations of the wording of the Zoning Ordinance

Article VI – PROCEDURES ON APPEALS

1. The Board of Zoning Appeals shall hear and determine all Appeals from the review of the following:

1.1 Any order, requirement, decision, or determination made by an administrative official or staff member concerning the Zoning Ordinance.

1.2 Any order, requirement, decision, or determination made by an administrative board or other body except a Plan Commission in relation to the enforcement of the Zoning Ordinance.

1.3 Any order, requirement, decision or determination made by administrative body or other body except a Plan Commission in relation to the enforcement of an ordinance adopted under Title 36 requiring an Improvement Location Permit or Compliance Permit.

2. Appeals shall be filed with the Board within 30 days after the written decision of the Plan Director or administrative official.

3. Appeals shall be prepared on the form provided thereof and shall specify the grounds of the appeal in such a manner that the Board may be fully informed of all facts and elements

involved, and a clear statement of the reason the applicant deems to justify the Appeal. The application shall be accompanied by the required filing fee.

4. The (10) copies of documents, plans and papers constituting the Appeal shall also be filed at the same time of the filing of the application and shall be not less than thirty days (30) days prior to the Board's meeting date.
5. Upon receipt of the properly filed Appeal application form and other necessary documentation, the Plan Director shall assign a Docket Number and place it on the calendar of the Board for hearing within sixty (60) days. Applications for Appeals shall be assigned for hearing in the order which they are received.
6. The Plan Director shall, upon request of the Board, submit to it the complete record, including plans and drawings, leading up to the decision from which it is appealed.
7. Filing the Appeal application form with the Plan Director and the Board shall stay all proceedings in furtherance of the action appealed from, unless the Plan Director certifies to the Board that, by reason of the facts stated in the Appeal application, a stay would, in his/her opinion, cause imminent peril to life or property. In this event, proceedings cannot be stayed other than by a restraining order granted by the Board or by a court of record on application, and on notice to the Plan Director and due cause shown.
8. Upon Appeal, the Board may reverse, affirm, or modify the order, requirement, decision, or determination from which it is appealed.

Article VII – PROCEDURES ON VARIANCES FROM DEVELOPMENT STANDARDS

1. A request for a Variance may be filed by an aggrieved person where there may be practical difficulties or particular hardships under the strict letter of the Zoning Ordinance relating to the use, construction, or alteration of buildings, structures, or uses of land.
2. Variances shall be filed with the Board on a form provided thereof and not less than thirty (30) days prior to the next Board's meeting date. The application shall be accompanied by the required filing fee.
3. Ten (10) copies of all supportive documentation such as an area location map, site plans, engineer's reports and other necessary papers as may be deemed necessary by the Board, or its staff shall accompany the application in order to aid in the Board's decision.
4. Upon receipt of the properly filed Variance application form and other documentation, the Plan Director shall assign a Docket Number and place it on the calendar of the Board for hearing within sixty (60) days. Applications for requests for Variances shall be assigned for hearing in the order in which they are received. An application for a Variance may accompany a request for an Appeal.

5. The Board of Zoning Appeals shall either approve or approve with conditions or deny Variances from Development Standards. A Variance if approved shall be done only upon the determination in writing that:
 - 5.1 The approval will not be injurious to the public health, safety, morals and general welfare of the community; and
 - 5.2 The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
 - 5.3 The strict application of the terms of this Ordinance will result in a Practical Difficulty. This situation shall not be self-imposed, nor be based on a perceived reduction of or restriction of economic gain.
6. The Board may permit or require the owner of a parcel of property to make written commitments and record it in the Hamilton County Recorder's Office concerning the use of or development of that parcel or may impose conditions upon the grant of a variance.
7. A developmental standards variance granted by the Board shall run with the parcel until such time as:
 - 7.1 the use of the variance ends, or
 - 7.2 the property conforms with this Ordinance as written.
8. The Board of Zoning Appeals may enforce any condition and/or commitment has imposed as if it were a standard of this Ordinance.
9. Building permits and/or Improvement Location Permits shall be applied for and approved within ninety (90) days of final Board action, all site improvements including all structure shall be completed, inspected and have been issued a Certificate of Occupancy within two (2) years of the issuance of a building permit or Improvement Location Permit unless otherwise authorized by the board.

Article VIII – PROCEDURES ON LAND USE VARIANCES

1. A request for a Land Use Variance may be filed by an owner of the property.
2. Land Use Variances shall be filed with the Board on a form provided thereof and shall specify the type of Land Use Variance to be sought and a statement of all details involving the use.
3. Ten (10) copies of all supportive documentation such as an area location map, site plan, engineer's report, and other papers as may be deemed necessary by the Board or staff shall be filed with the application.

4. Upon receipt of the application and necessary documentation, the Plan Director shall assign a Docket Number and place it on the calendar of the Board for hearing within sixty (60) days. All applications for Land Use Variances shall be assigned for hearing in the order in which they are received.
5. A Land Use Variance if approved shall be done only upon the determination in writing that:
 - 5.1 the approval will not be injurious to the public health, safety, morals and general welfare of the community.
 - 5.2 the use and value of the adjacent areas to the subject property are not adversely affected
 - 5.3 the need for a variance stem from a condition usual or peculiar to the subject property itself
 - 5.4 the strict application of the terms of this Ordinance will result in an unnecessary hardship if they were applied to the subject property; and
 - 5.5 the approval of the variance does not interfere substantially with the comprehensive plan adopted under the 500 series of IC 36-7-4.
6. The Board may permit or require the owner of a parcel of property to make written commitments and record it in the Hamilton County Recorder's Office concerning the use of development of that parcel or may impose conditions upon that grant of variance.
7. A use of variance granted by a Board may run with the parcel or application until such times as;
 - 7.1 The use of the variance ends, is vacated, unused for three (3) months consecutively.
 - 7.2 the property conforms with the Ordinance as written; or
 - 7.3 the property is sold
8. The Board of Zoning Appeals may enforce any condition and/or commitment is has imposed as if it were a standard of this Ordinance.
9. Building Permits and/or Improvement Location Permits shall be applied for an approved within ninety (90) days of final Board action, all site improvements including all structure shall be completed, inspected and have been issued a Certificate of Occupancy within two (2) years of the issuance of a building permit or Improvement Location Permit unless otherwise authorized by the board.

Article IX – PROCEDURES ON SPECIAL EXCEPTION

1. A request for a Special Exception shall be signed by the owner of the property,

2. Special Exceptions shall be filed with the Board on a form provided thereof and not less than thirty (30) days prior to the Board's next meeting date. The application shall be accompanied by the required filing fee.
3. Ten (10) copies of all supportive documentation such as an area location map, site plan, engineer's report and other papers as may be deemed necessary by the Board or staff shall accompany the application.
4. Upon receipt of a properly filed application for a Conditional Use and other necessary documentation, Plan Director shall assign a case number and place it on the calendar of the Board for hearing within sixty (60) days. Application for Special Exception shall be assigned for hearing in the order in which they are received.
5. A Special Exception may be approved only upon the determination in writing that:
 - 5.1 The proposal will not be injurious to the public health, safety, morals, and general welfare of the community
 - 5.2 The requirements and development standards for the requested use as prescribed by this Ordinance will be met.
 - 5.3 Granting the exception will not subvert the general purposes served by this Ordinance and will not permanently injure other property or uses in the same district and vicinity; and
 - 5.4 The proposed use will be consistent with the character of the district therein, the spirit and intent of this Ordinance, and the Cicero/Jackson Township Comprehensive Plan.
6. When considering s Special Exception, the Board of Zoning Appeals may take into consideration the following items as they relate to the proposed use:
 - 6.1 topography and other natural site features
 - 6.2 zoning of the site and surrounding properties
 - 6.3 driveway locations, street access and vehicular and pedestrian traffic
 - 6.4 parking amount, location, design
 - 6.6 landscaping, screening, buffering
 - 6.7 open space and other site amenities
 - 6.8 noise production and hours of operation
 - 6.9 design, placement, architecture, and building material of the structure;

- 6.10 placement, design intensity, height, and shielding of lights;
 - 6.11 traffic generation; and
 - 6.12 general site layout as it relates to its surroundings.
7. The Board may impose such reasonable conditions upon its approval as it deems necessary to find that the above criteria will be served.
 8. The Board may permit or require the owner of the parcel of property to make a written commitment concerning the use or development of the parcel as specified under IC 36-7-4-1015 and have such commitment recorded in the Hamilton County Recorder's Office.
 9. The Board may limit special exception to a specific individual and/or specific time period and for a specific use.
 10. A use authorized by special exception may not be changed, expanded, extended, enlarged unless authorized by the Board under the procedures set forth in these rules for granting a special exception.
 11. If the Board grants the special exception, it shall direct the applicant to apply for a Building Permit and/or Improvement Location Permit within four (4) months or the special exception will be void. If such application complies with all Ordinances and rules, a Building Permit and/or Improvement Location Permit for the use authorized by special exception shall be issued.
 12. A special exception, granted for a specific use ceases to be authorized and is void if that use is discontinued at that site for a consecutive six-month period.
 13. A special exception may be terminated by the Board of Zoning Appeals under the following conditions:
 - 13.1 Upon the filing of an application by an interested person or a member of the staff, a public hearing is held with notice to the property owner; and
 - 13.2 At the public hearing a finding is made by the Board that one more of the following has not been complied with:
 - a. The terms of this Ordinance
 - b. Conditions of Approval
 - c. Written Commitments
 14. The Board may put reasonable conditions on an approved Special Exception when it deems such conditions as necessary.

Article X – PROCEDURES ON HEARINGS

1. At the time of the hearing, the applicant shall appear on his/her own behalf or be represented by counsel or authorized agent by power of attorney.
2. Any application filed with the Board by the necessary deadline and unsupported by the area location map site plan, engineer's report, or other necessary documentation as

may be deemed necessary by the Board or staff be held in abeyance until after the filing of such documentation and continued until the next meeting.

3. Any application filed with the Board must also have on file the receipts from the certified mail, a certified list of affected property owners, a copy of the notice of public hearing which was sent and an affidavit.
4. The applicant or his/her representative may make an initial statement outlining the nature of the request prior to introducing the evidence.
5. Evidence shall be presented in the following order:
 - 5.1 The Chairperson may give a restatement of the case if the applicant's or his/her representative initial statement needs clarification.
 - 5.2 The applicant presents evidence
 - 5.3 The Board members examine the applicant's witness (ES)
 - 5.4 Any objector presents evidence
 - 5.5 The Board members examine the objector's witness (ES)
 - 5.6 Members of the public comment present evidence or comments
 - 5.7 Any evidence or report by the Board or the staff
6. A presentation should be completed in twenty (20) minutes. The Chairperson may increase the length of time for a presentation if requested by the applicant or his/her representative.
7. Each objector or member of the public shall have a maximum of three (3) minutes to present their information. Depending on the number of individuals in attendance and seeking to speak, additional time may be granted at or the discretion of the Chairperson.
8. A continuance may be granted at the discretion of the Board in any case for good cause shown and to any interested party who has entered his/her appearance as follow:
 - 8.1 New cases – first time on the agenda: Continuance may be granted upon request.
 - 8.2 Continued Cases: All cases which have previously appeared on the agenda of the Board constitute continued cases. A request for a further continuance will be considered upon written application thereof by the party, or his/her representative, at the time the case is called.
9. The Chairperson may entertain a motion from the Board to dismiss a case for want of prosecution or failure of the applicant to appear. In the absence of a motion by the Board, the Chairperson shall rule.
 - 9.1 In the cases which are dismissed for want of prosecution, the applicant will be furnished a written notice.
10. The Board shall not be bound by the strict rules of evidence, but it may exclude irrelevant, opposing the application. Such list will be accepted as an exhibit, it contains nothing more than an immaterial, incompetent, or unduly repetitious testimony or evidence.

11. An applicant or objector, or his/her agent or attorney, may submit a list of the persons favoring or
or
Opposing the application. Such list will be accepted as an exhibit, it contains nothing more than a brief statement of the position of the person favoring or opposing the application, together with the signatures of the persons subscribing to such statement.
12. The Chairperson shall rule on all questions, relating to the admissibility of evidence, which may be overruled by a majority or the Board.
13. The Board may continue a matter from meeting to meeting. If a petition is continued more than twice, re-notification either by the Board or the applicant shall be required at the discretion of the Board.
14. Discourtesy and disorderly or contemptuous conduct shall be regarded as a breach of the privileges of the Board and shall be dealt with as the Chaiman may deem proper.

Article XI – NOTICES FOR HEARINGS

1. The Petitioner shall give due notice of the place and time for the application to be published in the Hamilton County Report and not less than ten (10) full days before the date of the hearing thereon. Petitions for Appeals, Variances from Development Standards, Land Use Variances and Special Exceptions will be required to assume the cost of published notice of hearings held on such petitions.
2. The notice of public hearing shall contain as a minimum the following information:
 - 2.1 Docket number and the substance of the matter to be heard including size of property in acres.
 - 2.2 General location by address and identifiable geographic area of the property.
 - 2.3 Name of the person or agency initiating the matter to be heard,
 - 2.4 Time and place of the hearing
 - 2.5 Statement that the petition including full legal description may be examined at the office of the Commission
 - 2.6 Statement that interested parties may offer an oral opinion at the hearing or may file written comments concerning the matter to be heard prior to or at the hearing.
 - 2.7 A statement that the hearing may be continued from time to time as may be found necessary.
 - 2.8 Any other information which may be required by law to be contained in such notice.

3. All Petitions for Appeals, Variances from Development Standards, Land Use Variances and Special Exceptions shall give notice by certified registered return receipt mail posted not less than ten (10) full days prior to the date set for the hearing upon their application by the Board, as the case may be, to all legal contiguous and bi-continuous parcels, but are not limited to, all properties within six hundred (600) feet or two (2) property deep whichever is less of the subject site boundaries within the corporate boundary and only directly adjacent properties outside the corporate limits as determined by Hamilton County Office of Transfers and Mapping. The list can be no more than thirty (30) days old. Notice to them shall be given by certified mail not less than ten (10) full days prior to the date of the hearing. For the purpose of determining contiguous and bi-contiguous parcels, the real estate described in the petition shall be deemed to include any adjacent land owned by the petitioner. Land separated from the petitioned real estate by streets, railways, easements, bodies of water, ect, shall be deemed to land contiguous and bi-contiguous to the petitioned real estate. A list of all such owners shall be part of the petitioner's application.
4. Said notice shall be addressed to said owners at their last and usual place of residence, provided, however, that the mailing of such notice to said owners at the address shown on the property tax records of Hamilton County, Indiana, shall be sufficient and provided further that in the event any such owner be a corporation the giving of such notice, either at the address shown on the property tax records of Hamilton County, Indiana or to the resident agent of such corporation shall be sufficient.
5. Notice addressed to any one of two or more partners to any one of two or more joint tenants, tenants in common, or tenants by the entireties shall be sufficient.
6. The petitioner shall, when the application is submitted, furnish the Director with a certified list of the names and addresses of all such owners to whom such notice shall be given. Three days prior to the hearing, the green and white receipts from the certified mail, a copy of the notice which was sent to the surrounding property owners and a signed affidavit that after a diligent search of the records of Hamilton County, Indiana, said list contains the names and addresses of all owners of real estate affected two properties deep.
7. For the purpose of these rules, the term 'legal owners' and 'owners' shall be defined as being such person or persons in whose name is vested the legal title of real estate as may be shown by the records of Hamilton County, Indiana, including the transfer books in the Office of the Auditor of Hamilton County, Indiana and their heir's, executors, administrator's, trustees, successors and assigns as may be shown by affidavit, deed and other instruments of conveyance.
8. Such term shall not be interpreted as having reference to lessees, tenants and other similar classes of persons.

9. No advertisement required by law shall be published by the Board or petitioner giving notice of an application or a petition for appeal, variance, Special Exceptions until said applicant or petitioner supports his/her application or petition by an area location map, site plan, survey, or other supportive data as required by the Board or staff.
10. Interested parties shall also be all residents within the Jurisdiction of the Cicero/Jackson Township Plan Commission and notice to them shall be given by a notice sign prescribed by the Board. A sign shall be available from the Board upon payment of the applicable fee. Said sign shall be placed upon the real estate described in the petition at least ten (10) days prior to the date of the hearing along each non-intersection road frontage in a location thereon best visible by unobstructed view by the general public but in no case more than 25 feet from the edge of the road frontage.

Article XII - DECISIONS

1. Final decisions or recommendations shall be made within sixty (60) days from the date of the hearing or continued hearing.
2. The Board shall conduct its deliberations and vote on all matters in public session
3. A concurring vote of three (3) members of the Board shall be necessary to reverse or modify and order requirement, decision, or determination of the Plan Director, or to grant any Variance from the Development Standards, Land Use Variance or Special Exception.
4. All decisions of the Board shall be made at a public meeting by motion made and seconded. The vote shall be by a Roll Call "Voice Vote" of the members. The motion which decides the issue shall be in the form of findings of facts and shall state the reasons for the Findings by the Board. If conditions are imposed in the granting of the application, such conditions shall be included in the motion.
5. The minutes of the case shall be acknowledged as to accuracy by the Chairperson and Secretary and shall be a part of the public record of the Board.
6. Unless otherwise specified by the Board, any order or decision of the Board authorizing a Variance from the Development Standards, a Land Use Variance and Special Exception shall expire if the applicant fails to obtain an Improvement Location Permit and fails to begin construction or operations within ninety (90) days from the date of the decision, except as otherwise stated in the Zoning Ordinance.

Article XIV – AMENDMENT OF RULES

1. These rules may be amended by an affirmative majority vote of all members of the Board
2. The proposed amendment must be presented in writing at a regular or special meeting proceeding the meeting at which the vote is taken.

The foregoing rules and regulations are here by adopted by the Cicero/Jackson Township Board of Zoning Appeals
Indiana, on the _____ day of _____ 20_____.

Chairperson _____

Secretary _____

ATTEST _____

DRAFT



CICERO/JACKSON TOWNSHIP PLAN COMMISSION

CICERO / JACKSON TOWNSHIP (BOARD OF ZONING AND APPEALS)

CICERO / JACKSON TOWNSHIP PLANNING AND DEVELOPMENT

SEP 19 REC'D

RECEIVED

VARIANCE APPLICATION

OFFICE USE ONLY

Variance Category

Development Standards Special Exception
Land Use Other

Docket #: BZA-1074-44-125

Date of Application: 9/19/24

Date of Expiration:

Variance Check List

Adjoiner List Legal Notice Copy
 Certified Mail Receipts Property Sign
 Additional Applications for Variances

Variance Fee: \$300.00

Date of Hearing: 10/19/24

Date of Decision:

Approved Not Approved

APPLICANT MUST COMPLETE THE FOLLOWING

Property Owner: Garry Harling and Angela Hug

Property Address: 169 W. Buckeye Street

City: Cicero

State: Indiana

ZIP Code: 46034

Telephone: 463-210-9070

E-mail: gah252@yahoo.com

Fax:

Project Address: 169 W. Buckeye Street

State: IN

ZIP Code: 46034

City: Cicero

Subdivision: Cole and Jones Lot 3

Parcel: 05-06-01-02-04-007.000

Telephone: 463-210-9070

General Contractor:

Fax:

Address:

Cell Phone:

City:

State:

ZIP Code:

Email:

Variance Request: The variance request is for the set back from the property line for a mini shed. We are requesting a variance to be within 2 feet of the line instead of the current requirement.

Commitments/ Conditions Offered:

Code Section Appealed:















**CICERO/JACKSON
TOWNSHIP
PLAN COMMISSION**

Docket #: BZA-1024-44-R5

Petitioner: Garry Harling

**Cicero/Jackson Township
Plan Director Staff Report**

Docket No. BZA-1024-44-R5

Staff: Frank Zawadzki

Applicant: Garry Harling

Property Size: .25

Current Zoning: R5

Location: 169 W Buckeye Street, Cicero, IN 46034

Background Summary: A Development Standards Variance application has been submitted regarding the property located at 169 West Buckeye St, Cicero IN, 46034 seeking relief from Article 3.12 "R5" District Standards which states that side yard setbacks shall be five (5) feet.

Preliminary Staff Recommendations: Staff would not be opposed to approval. Other encroachments such as this have been approved in the past.

Zoning Ordinance Considerations: Setbacks are 5' from side and rear per R5 standards. Petitioner requests a side setback of 2-3 ft.

District Intent: : The "R5" District, Old Town Residential, is intended to provide a land use category for small lots and small-sized single family detached homes.

Current Property Information:

Land Use: One Family Dwelling Platted



**CICERO/JACKSON
TOWNSHIP
PLAN COMMISSION**

Site Features: Single family lot in old town. Buckeye street on the North bordered with an alleyway on the East.

Vehicle Access: Yes – from alley

Planning Considerations:

The following general site considerations, planning concepts, and other facts should be considered in the BZA decision making process:

The size of this mini barn did not require a building permit.

It was after placement (it came pre-built and was delivered) that I discovered the encroachment. Mr. Harling did ask about setbacks beforehand, I think he misunderstood. He's been very cooperative.

Findings of Facts/Decision Criteria: Practical difficulty condition seems to be met. There is not much other space to put this and be useful/accessible.



**CICERO/JACKSON
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PLAN COMMISSION**

Findings of Fact/Decision Criteria:

The Board of Zoning Appeals may approve or deny variances from the **development standards** of the Cicero/Jackson Township Zoning Ordinance. The Board may impose written commitments and/or reasonable conditions as part of an approval. A variance from the development standards may only be approved upon a determination in writing that:

- 1 The approval will not be injurious to the public health, safety, morals, and general welfare of the community.

Findings of Facts:

This criterion has / has not been met.

- 2 The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

Findings of Facts:

This criterion has / has not been met.

- 3 The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property. *Practical Difficulty: A difficulty with regard to one's ability to improve land stemming from regulations of this Ordinance. A practical difficulty is not a "hardship," rather it is situation where owner could comply with the regulations within this Ordinance but would like a variance from the Development Standards to improve his site in a practical manner. For instance, a person may request a variance from a side yard setback due to a large tree which is blocking the only location that would meet the Development Standards for a new garage location.*

Findings of Facts:

This criterion has / has not been met.



**CICERO/JACKSON
TOWNSHIP
PLAN COMMISSION**

Board of Zoning Appeals Options:

In reviewing a request for development standards variance the Board may (1) approve the petition as proposed, (2) approve the petition with conditions, (3) continue the petition to a future meeting of the Board, or (4) deny the petition (with or without prejudice). Failure to achieve a quorum on a motion results in an automatic continuance to the next regularly scheduled meeting.

Decision: _____

Any Conditions Attached: _____

Signature: _____

Date: _____



**CICERO/JACKSON
TOWNSHIP
PLAN COMMISSION**

CICERO / JACKSON TOWNSHIP (BOARD OF ZONING AND APPEALS)

VARIANCE APPLICATION

OFFICE USE ONLY			
Variance Category		Docket #: BZA-1024-45-R1	
<input checked="" type="checkbox"/> Development Standards	<input type="checkbox"/> Special Exception	Date of Application: 09-29-2024	
<input type="checkbox"/> Land Use	<input type="checkbox"/> Other	Date of Expiration:	
Variance Check List		Variance Fee: \$320.00	
<input type="checkbox"/> Adjoiner List	<input type="checkbox"/> Legal Notice Copy	Date of Hearing: 10-17-2024	
<input type="checkbox"/> Certified Mail Receipts	<input type="checkbox"/> Property Sign	Date of Decision:	
<input type="checkbox"/> Additional Applications for Variances		<input type="checkbox"/> Approved	<input type="checkbox"/> Not Approved
APPLICANT MUST COMPLETE THE FOLLOWING			
Property Owner: David & Leah Cupps			
Property Address: 67 Hickory Ridge Circle			
City: Cicero		State: IN	ZIP Code: 46034
Telephone: 812.603.6149		E-mail: davidtcupps@gmail.com	
		Fax:	
Project Address: 67 Hickory Ridge Circle		State: IN	ZIP Code: 46034
City: Cicero		Subdivision: Forest Bay	
Parcel: 29-06-11-203-001.000-008		Telephone:	
General Contractor: Heuer Homes, LLC		Fax:	
Address: 120 N Peru Street		Cell Phone: 317.518.2993	
City: Cicero State: IN ZIP Code: 46034		Email: ian@heuerhomes.com	
Variance Request: Requesting no stone to be on north side of barn for horse safety.			
Commitments/ Conditions Offered:			
Code Section Appealed:			



**CICERO/JACKSON
TOWNSHIP
PLAN COMMISSION**

Docket #: BZA-1024-45-R1

Petitioner: David & Leah Cupps

**Cicero/Jackson Township
Plan Director Staff Report**

Docket No. BZA-1024-45-R1

Staff: Frank Zawadzki

Applicant: David & Leah Cupps

Property Size: 11.60

Current Zoning: R1

Location: 67 Hickory Ridge Circle, Cicero, IN 46034

Background Summary: A Development Standards Variance application has been submitted seeking relief from Article 7.22 of the Cicero/Jackson Township Zoning Ordinance 7.8 which states; The primary building material for all facades of the Primary and Accessory Structures are to be brick, natural or cut stone.

Preliminary Staff Recommendations: Staff would not be opposed to approval. There was previously a plan approved that included stone on the north side of the barn. After construction, it was determined that the stone would not be a good fit for horses since they will have close contact in this area of the barn and requested to omit.

Zoning Ordinance Considerations: Architectural standards require stone on façade.



**CICERO/JACKSON
TOWNSHIP
PLAN COMMISSION**

District Intent: : The “R1” District (Estate Residential) is intended to provide a land use category for large lots and large single family detached homes.

Current Property Information:

Land Use: Cash grain/general farm

Site Features: 11 acres in Forest Bay used as a Horse farm with frontage on 226th St. and Hickory Ridge.

Vehicle Access: Yes

Planning Considerations:

The following general site considerations, planning concepts, and other facts should be considered in the Plan Commission decision making process:

Findings of Facts/Decision Criteria: I believe we have a practical difficulty here because of the horse/stone issue.



**CICERO/JACKSON
TOWNSHIP
PLAN COMMISSION**

Findings of Fact/Decision Criteria:

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Findings of Facts:

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- 2 The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

Findings of Facts:

This criterion has / has not been met.

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Findings of Facts:

This criterion has / has not been met.



**CICERO/JACKSON
TOWNSHIP
PLAN COMMISSION**

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Decision: _____

Any Conditions Attached: _____

Signature: _____

Date: _____



**CICERO/JACKSON
TOWNSHIP
PLAN COMMISSION**

Director's Report

September 2024

Permit Revenue: September 2024 = \$5,612, YTD: \$46,394

September 2023 = \$5,310 YTD: \$72,210

Difference: Month = +\$302 YTD: -\$25,816

We have issued a total of 20 building permits for September of 2024.

15 have been within the corporate limits (of which 0 have been new homes).

We have issued 5 in Jackson Township (of which, 0 has been for a new home).

Estimated Cost of projects permitted \$802,555.

Please feel free to email, call or stop by the office anytime.

At your service!

Frank Zawadzki