



Planning and Development

Memorandum

To: Board of Zoning Appeals

From: Richard Oman, Director of Planning and Development

Subject: BZA Docket # 24-010 (2051 E Commercial Ave)

Date: August 5, 2024

HEARING DATE:

August 8, 2024

BACKGROUND INFORMATION:

PETITIONER(S): Tri Creek School – Lowell High School

SITE LOCATION: 2051 E Commercial Ave

EXISTING ZONING: R2

ANALYSIS OF THE REQUEST:**OVERVIEW:**

The Petitioner is requesting a variance from the developmental standards of the Town of Lowell Land Use and Development Code to erect signage on the Lowell High School property. The property is zoned R2. The high school was built, and the existing signage was erected on the property before the Town of Lowell Ordinances were originally enacted. The existing signage on the property is considered *legal nonconforming*, per the Town of Lowell Land Use and Development Code § 155.122:

- (A) Any sign, lawfully established prior to the effective date of this chapter, or its subsequent amendments, that no longer meets the developmental standards shall be deemed a legal nonconforming sign. For the purposes of this subchapter, a sign shall include the sign face and any supports, poles, or frames.
- (B) A legal nonconforming sign may continue provided that it remains the same or fits within the below described tolerances:
 - (1) Any legal nonconforming sign shall not be enlarged or altered in terms of face area, height, or any other aspect that increases its nonconformity. However, any sign or portion thereof may be altered to decrease its nonconformity.
 - (2) Any legal nonconforming sign which is intentionally altered to conform to the requirements of this chapter shall thereafter conform to the regulations of the district in which it is located, and the legal nonconforming features may not be resumed.

(3) If a sign is moved or removed for any reason, for any distance, it shall thereafter conform to the provisions of this chapter.

(4) The sign faces and/or message on a legal nonconforming sign may be altered, replaced, repainted, and repaired provided that the nonconformity of the sign is not increased. Nothing in this subchapter shall be interpreted as requiring a sign to be brought into conformance with this chapter if only the face is changed, but not increased in size or altered in shape.

As a result, the existing signage on the property may continue so long as it complies with § 155.122. However, the Petitioner desires to remove the existing signage and erect new signage on the property which will result in the signage losing its *legal nonconforming* status. The newly erected signage must then comply with the current Town standards.

REASON FOR REQUESTED CHANGE (DEVELOPMENT OBJECTIVE):

The Petitioner is adding, upgrading or moving existing athletic fields and has relocated the administrative offices for the school district to the high school property. The Petitioner desires to erect new signage on the property to identify buildings, direct vehicle and pedestrian traffic, and to show school support. Although the general sign standards in the Town of Lowell Land Use and Development Code § 155.102 apply to signage in the R2 zoning district (generally regarding maintenance), the permanent sign standards in § 155.104 do not. Additionally, the development standards for the R2 zoning district in § 155.032 do not provide for signage. As a result, the Petitioner requests a variance from the developmental standards to permit it to erect signage as proposed in the 19-page sign package attached to its Application for Variance from Developmental Standards, executed July 9, 2024, and incorporated herein by reference.

STAFF RECOMMENDATION AND PROPOSED FINDINGS OF FACT:

1. Staff recommends that the Board of Zoning Appeals APPROVE the Petitioner's variance and permit the Petitioner to construct signage as proposed.
2. The Town of Lowell Board of Zoning Appeals shall make written Findings of Fact in accordance with I.C. §36-7-4-915, and the Town of Lowell Zoning Ordinance, as amended from time to time. Based upon its evaluation, Staff recommends that the Board of Zoning Appeals make Findings of Fact as follows:
 - A. Under the current Town of Lowell Land Use and Development Code § 155.032 and § 155.104, signage is not permitted in the R2 zoning district.
 - B. Approval of Petitioner's variance will not be injurious to the public health, safety, morals, and general welfare of the community;
 - C. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner;
 - D. Strict application of the terms of the Zoning Ordinance will result in practical

difficulties in the use of the Petitioner’s property. However, the Zoning Ordinance may establish a stricter standard than the “practical difficulties” standard prescribed by I.C. 36-7-4-918.5;

- E. The Findings of the Town of Lowell Board of Zoning Appeals are based upon and in accordance with the Town of Lowell Zoning Ordinance and Indiana state statutes, and shall not be construed or interpreted to be a determination by the Town of Lowell Board of Zoning Appeals of compliance, or noncompliance, with covenants, restrictions, or limitations on the real estate defined herein, if any; and,
- F. Petitioner shall comply with all requirements of the Town of Lowell Municipal Code and Indiana state statutes related to the applicable building permits, licensing/registration of contractors, inspections, etc. that are required for construction as permitted herein. Additionally, approval of any variance by the Town of Lowell Board of Zoning Appeals shall not be construed or interpreted as pre-approval or waiver of any such requirement.

PROPOSED MOTIONS:

- 1. Staff recommends that the Board of Zoning Appeals grant approval of the Petitioner’s request for signage as proposed in the 19-page sign package attached to the Petitioner’s Application for Variance from Developmental Standards, executed July 9, 2024, conditioned upon:
 - a. All signage that directly faces or is located near residential areas shall be reverse illuminated and dimmed at night. This includes but is not limited to the monument sign on the west side of Holtz Rd at the north lot entrance.
 - b. There shall be no animation on any sign.
 - c. Approval of the Board of Zoning Appeals shall be required for any future modifications or changes to the signage on the property.
- 2. If the Board of Zoning Appeals agrees with the above recommendations, Staff requests that this report be adopted by the Town of Lowell Board of Zoning Appeals as its written Findings of Fact.

Rich Oman, Director of Planning and Development
Town of Lowell
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Attachments:

1. Application
2. Proposed sign package

ACTION TAKEN:

1 MOTION/VOTE: ___ IN FAVOR; ___ OPPOSED; ___ ABSTAINED; ___ ABSENT;
2 MOTION/VOTE: ___ IN FAVOR; ___ OPPOSED; ___ ABSTAINED; ___ ABSENT;

FINDINGS OF FACT/VOTE: ___ IN FAVOR; ___ OPPOSED; ___ ABSTAINED; ___ ABSENT;

DATE: _____

BOARD OF ZONING APPEALS PRESIDENT _____ **(SIGN)**