



# Planning and Development

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## Memorandum

To: Board of Zoning Appeals

From: Richard Oman, Director of Planning and Development

Subject: BZA Docket # 24-013 (17232 Donald Ct.)

Date: September 10, 2024

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**HEARING DATE:**

September 12, 2024

**BACKGROUND INFORMATION:**

PETITIONER(S): Cripe Development

SITE LOCATION: 17232 Donald Court

EXISTING ZONING: R2

**ANALYSIS OF THE REQUEST:**

**OVERVIEW:**

The Petitioner is requesting a reduction for the rear yard setback on the existing lot 99 in The Preserves – Phase 6 Subdivision.

Under the current Town of Lowell Land Use and Development Code 155.032 (B), District Standards rear setback for a R2 subdivision is 30 feet. As a result, to build as proposed, Petitioner requires a variance of 22 feet for the proposed 8 feet rear building set back line.

**REASON FOR REQUESTED CHANGE (DEVELOPMENT OBJECTIVE):**

With the square footage requirements for a house in R2 zoning, and the shape of the subdivided lot, the proposed house will not fit within the platted rear setback. With there only being three sides to the lot, the rear yard could also be viewed as a side yard. The side yard setback requirement for R2 zoning is 8 feet.

**OTHER INFORMATION:**

There is a platted drainage and utility easement along the rear line of the property, which is 7.5 feet from the rear property line. The Petitioner is requesting a rear yard setback of 8 feet, which is outside of the platted easement, also the Petitioner is showing the proposed house location to be 12 feet from the rear property line, putting it further from the platted easement.

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**STAFF RECOMMENDATION AND PROPOSED FINDINGS OF FACT:**

1. Staff recommends that the Board of Zoning Appeals APPROVE the Petitioner's variance.
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 (B), District Standards the rear yard setback is 30 feet;
  - B. Approval of Petitioner's variances 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 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 requested developmental variance from the requirements of the Town of Lowell Land Use and Development Code 155.032 (B) District Standards rear setback from 30' feet to 8'. Subject to:
2. Staff approval of construction plans
3. If the Board of Zoning Appeals agrees with the above recommendations, Staff requests

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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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Email: [building@lowell.net](mailto:building@lowell.net)

Attachments:

1. Application
2. Proposed site plan

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**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)**