



# Planning and Development

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## Memorandum

To: Board of Zoning Appeals

From: Richard Oman, Director of Planning and Development

Subject: BZA Docket # 24-011 (515 Joe Martin Road)

Date: September 10, 2024

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### **HEARING DATE:**

September 12, 2024

### **BACKGROUND INFORMATION:**

PETITIONER(S): Jonathan Hlebasko

SITE LOCATION: 515 Joe Martin

EXISTING ZONING: R-1 Residential

### **ANALYSIS OF THE REQUEST:**

#### **OVERVIEW:**

The petitioner is requesting to allow an accessory structure, totaling 1728 square feet on their lot with a height of 19.5 feet.

Under the current Town of Lowell Land Use and Development Code 155.075 (B)(1)(a), on a residential lot on which the primary structure includes an attached garage, up to two accessory structures are permitted with a maximum combined floor area of 400 square feet. Each accessory structure shall have a maximum floor area of 200 square feet. The petitioner has an existing shed that is 12x16= 192 square feet that they are keeping. As a result, to build as proposed, Petitioner requires a variance of 1528 square feet for one accessory structure.

Under the current Town of Lowell Land Use and Development Code 155.031 (B) District Standards - accessory structure height is listed as 16' max. As a result, Petitioner requires a variance of 3.5 feet to build the accessory structure as proposed.

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

The new accessory structure would be used for housing recreational vehicles and equipment. It will be located behind the building and will meet all the zoning setback requirements.

**OTHER INFORMATION:**

The Petitioner's lot is approximately 2 acres. Adding the structure will not adversely affect the impervious surface allotment per the zoning code, the total impervious surface for the lot with the garage added is around 5%, the zoning code for R1 allows for 35% lot coverage. The petitioner is proposing a gravel drive connecting to the existing asphalt drive to access this structure. Gravel drives are not allowed per Town of Lowell Ordinance 155.080(C)(1). This parcel is not platted in a subdivision, the existing underground infrastructure easements are unknown.

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

1. 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 155.075 (B)(1)(a) On a residential lot on which the primary structure includes an attached garage, up to two accessory structures are permitted with a maximum combined floor area of 400 square feet. Each accessory structure shall have a maximum floor area of 200 square feet. Therefore, the Petitioner is required to obtain a Developmental Variance for the additional square footage of floor space to construct the accessory structure as proposed.
  - B. Approval of Petitioner's variances will 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 be affected in a substantially adverse manner;
  - D. Strict application of the terms of the Zoning Ordinance will not 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.

**STAFF RECOMMENDATION AND PROPOSED FINDINGS OF FACT: HEIGHT 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 155.031 (B), on a residential lot the accessory structure shall have a maximum height of 16 feet. Therefore, Petitioner is required to obtain a Developmental Variance for the additional 3.5 feet in height to construct the accessory structure as proposed;
  - B. Approval of Petitioner’s variances will 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 be affected in a substantially adverse manner;
  - D. Strict application of the terms of the Zoning Ordinance will not 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. SQUARE FOOTAGE VARIANCE**

Staff recommends that the Board of Zoning Appeals deny approval of the Applicant’s requested developmental variance from the requirements of the Town of Lowell Zoning Code 155.075 (B)(1)(a), permit construction of an accessory structure totaling no more than 1200 square feet subject to:

- A. Staff approval of construction plans and a site plan.
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- B. The proposed driveway conforms to the Town of Lowell Ordinance 155.080(C)(1), and either be constructed with asphalt or concrete.
- C. The proposed accessory structure be constructed within ten feet east of the existing fence behind the house, so as not to be north of the north fence line or any closer than 20 feet to the south property line.

**2. HEIGHT VARIANCE:**

**A.** Staff recommends that the Board of Zoning Appeals deny the requested variance from the requirements of the Town of Lowell Zoning Code 155.031 (B) District Standards.

**3.** If the Board of Zoning Appeals agrees with this recommendation, Staff requests that this report be adopted by the Town of Lowell Board of Zoning Appeals as its Findings of Fact;

Rich Oman, Director of Planning and Development  
 Town of Lowell  
 Phone: 219.696.7794, Ext. 225

Attachments:

- 1. Application
- 2. Site Plan with proposed improvement

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**ACTION TAKEN:**

**MOTION/VOTE:** \_\_\_\_ **IN FAVOR;**      \_\_\_\_ **OPPOSED;**      \_\_\_\_ **ABSTAINED;**      \_\_\_\_ **ABSENT;**

**FINDINGS OF FACT/VOTE:** \_\_\_\_ **IN FAVOR;**      \_\_\_\_ **OPPOSED;**      \_\_\_\_ **ABSTAINED;**      \_\_\_\_ **ABSENT;**

**DATE:** \_\_\_\_\_

**BOARD OF ZONING APPEALS PRESIDENT** \_\_\_\_\_ **(SIGN)**