

BOARD OF ZONING APPEALS

FINDINGS OF FACT

APPLICATION(S): BZA-2025-02a and BZA-2025-02b

PROPERTY ADDRESS: 110 E 9th Street, Lapel, IN 46051

Variance of Development Standards applications were submitted to the Lapel Board of Zoning Appeals for the location referenced above. The requests were submitted by the Fraternal Order of Eagles Aerie 4323. The requests sought approval for a Variance of Development Standards from the following sections:

- **BZA-2025-02a** *UDO V 6.2.4.B.ii* Approval of the Variance of Development Standards to permit the primary structure to encroach upon the side setback.
- **BZA-2025-02b** *UDO V 6.2.4.B.ii* Approval of the Variance of Development Standards to permit an addition to the primary structure to encroach upon the side setback.

The Lapel Board of Zoning Appeals conducted a hearing on 04/03/25. After testimony was given and evidence was presented to the Board, a motion to APPROVE the Variances with conditions was made, and the motion carried [4-0].

VARIANCE OF DEVELOPMENT STANDARDS FINDINGS

BZA-2025-02a

Indiana Code 36-7-4-918.5 states that a Variance of Development Standards may be approved only upon a determination in writing that the three standards below are true. In its deliberations, the Lapel Board of Zoning Appeals weighed the evidence associated with the following standards and made the following findings in granting the request for a Variance of Development Standards:

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

The variance sought applies to a legal nonconforming structure that has existed for close to 20 years and will therefore have no bearing on public health, safety, morals, and general welfare.

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:**

It is likely that the use and value of real estate adjacent to the subject site will NOT be affected in a substantially adverse manner by allowing the requested variance. Nearby

property owners may remonstrate against this petition if they believe this request will have significant adverse effects on adjacent properties. Should nothing contrary be brought to light by adjacent owners at the public hearing, it is presumed that the approval of this variance request will not have a substantially adverse effect on the use and value of adjacent properties.

3. The strict application of the terms of this Ordinance will result in a practical difficulty in the use of the property.

There are few modifications that can be made to the building that would not require a variance. The strict application of the Ordinance would prevent many variances from being approved on the grounds that a legal nonconforming structure should not be enlarged in ways that do not reduce its nonconformity.

BZA-2025-02b

Indiana Code 36-7-4-918.5 states that a Variance of Development Standards may be approved only upon a determination in writing that the three standards below are true. In its deliberations, the Lapel Board of Zoning Appeals weighed the evidence associated with the following standards and made the following findings in granting the request for a Variance of Development Standards:

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

The intended purpose of this porch is to create a smoking area for club patrons, enabling the larger main space to be designated as non-smoking. This would certainly improve public health by reducing visitors' and workers' exposure to second-hand smoke.

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:

It is likely that the use and value of real estate adjacent to the subject site will NOT be affected in a substantially adverse manner by allowing the requested variance. Nearby property owners may remonstrate against this petition if they believe this request will have significant adverse effects on adjacent properties. Should nothing contrary be brought to light by adjacent owners at the public hearing, it is presumed that the approval of this variance request will not have a substantially adverse effect on the use and value of adjacent properties.

3. The strict application of the terms of this Ordinance will result in a practical difficulty in the use of the property.

The proposed location and size of the porch takes advantage of an existing concrete pad. While another location or size would be possible, it would require moving existing mechanical equipment, reconfiguring parking, and altering the shape of the existing concrete pad, and a variance may still be required anyway.

The Findings of Fact contained herein are adopted by the Lapel Board of Zoning Appeals on ____/____/2025.

Chairperson, printed

Secretary, printed

Chairperson, signature

Secretary, signature