

BOARD OF ZONING APPEALS

FINDINGS OF FACT

APPLICATION(S): BZA-2025-03a, BZA-2025-03b, BZA-2025-03c,
BZA-2025-03d, BZA-2025-03e

PROPERTY ADDRESSES: Montgomery Farms Subdivision
Lot 10 - 3100 Montgomery Blvd, Lapel, IN 46051; Lot 11 -
3110 Montgomery Blvd, Lapel, IN 46051; Lot 24 - 3115
Montgomery Blvd Lapel, IN 46051; Lot 26 - 9417 Crimson
Cir, Lapel, IN 46051; Lot 28 - 9406 Crimson Cir, Lapel, IN
46051; Lot 30 - 9426 Crimson Cir, Lapel, IN 46051; Lot 31 -
9436 Crimson Cir, Lapel, IN 46051; Lot 32 - 9410
Birmingham Blvd Lapel, IN 46051; Lot 33 - 3130
Montgomery Blvd Lapel, IN 46051; Lot 37 - 9405
Birmingham Blvd Lapel, IN 46051; Lot 39 - 9425 Birmingham
Blvd, Lapel, IN 46051

Variance of Development Standards applications were submitted to the Lapel Board of Zoning Appeals for the locations referenced above. The requests were submitted by Scott Noel, Braun Property Development, Inc. The requests sought approval for the Variances of Development Standards from the following sections:

- **BZA-2025-03a** *UDO V 3.2.11.D.iii* Approval of Variance of Development Standards to permit a reduction in the required amount of masonry on the front elevation of residential buildings from 50% of the façade to a minimum of 36 inches.
- **BZA-2025-03b** *UDO V 3.2.11.D.iv* Approval of Variance of Development Standards to permit a reduction in the required amount of masonry on the side and rear elevations in public view of residential buildings from 50% of the façade to a minimum of 36 inches.
- **BZA-2025-03c** *UDO V 3.2.11.E.ii* Approval of Variance of Development Standards to permit the elimination of the requirement for a step back on the rear elevation of the building.
- **BZA-2025-03d** *UDO V 3.2.11.E.iii* Approval of Variance of Development Standards to permit up to one elevation to be windowless.
- **BZA-2025-03e** *UDO V 3.2.11.F* Approval of Variance of Development Standards to permit the elimination of requirement to meet minimum score on Architectural and Conservation and Indoor Air Quality Standards.

The Lapel Board of Zoning Appeals conducted a hearing on 04/03/2025. After testimony was given and evidence was presented to the Board, motions to APPROVE the Variances BZA-2025-03a and BZA-2025-03b with conditions were made, and the motions carried [4-0]; motions to DENY the Variances BZA-2025-03c and BZA-2025-03d were made, and the motions carried [4-0]. A motion to CONTINUE the Variance BZA-2025-03e was made, and the motion failed [2-2]; a motion to APPROVE the Variance BZA-2025-03e with conditions was made, and the motion failed [2-2]; finally a second motion to APPROVE the Variance BZA-2025-03e with modified conditions was made, and the motion carried [4-0].

VARIANCE OF DEVELOPMENT STANDARDS FINDINGS

BZA-2025-03a

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 requested variance would allow buildings that are consistent with the appearance of existing buildings in the subdivision, so it is presumed that it will not be injurious to the public health, safety, morals and general welfare of the community.

- 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 NOT result in a practical difficulty in the use of the property.**

The strict application of these architectural standards does not present practical difficulties, but it would result in a break in the architectural character of the subdivision. Therefore, approval of this variance will more properly support the intention of these standards for attractive and cohesive neighborhood design.

BZA-2025-03b

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 requested variance would allow buildings that are consistent with the appearance of existing buildings in the subdivision, so it is presumed that it will not be injurious to the public health, safety, morals and general welfare of the community.

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 NOT result in a practical difficulty in the use of the property.**

The strict application of these architectural standards does not present practical difficulties, but it would result in a break in the architectural character of the subdivision. Therefore, approval of this variance will more properly support the intention of these standards for attractive and cohesive neighborhood design.

BZA-2025-03c

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 requested variance would allow buildings that are consistent with the appearance of existing buildings in the subdivision, so it is presumed that it will not be injurious to the public health, safety, morals and general welfare of the community.

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 NOT result in a practical difficulty in the use of the property.**

The strict application of these architectural standards will require property owners to pay for modifications to their home they may not really want; however, this does not count as a practical difficulty in the language of the ordinance, and there are enough houses within the subdivision that already meet these standards that the strict application of these standards will not alter the overall character of the subdivision.

BZA-2025-03d

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 be injurious to the public health, safety, morals, and general welfare of the community:

While the primary purpose of this standard is to prevent large expanses of blank, featureless walls, there are some public health benefits to providing windows on all elevations, chiefly in the form of the psychological benefits of access to sunlight and views of nature. Admittedly, these effects are likely to be small, but there is no compelling reason to make this trade-off.

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 NOT result in a practical difficulty in the use of the property.

The strict application of these architectural standards will require property owners to pay for modifications to their home designs they may not really want; however, this does not count as a practical difficulty in the language of the ordinance. There are no standards for the location or size of windows that would meet the terms of this ordinance, so it should be completely practicable to add just one window to any elevation designs that do not have them.

BZA-2025-03e

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 standards in these tables promote public health by protecting indoor air quality and promote the general welfare of the community by promoting energy and water efficiency, allowing the Town to provide these critical utilities to more households with smaller decreases in available capacity. At the same time, the minimum score requirements are higher than necessary to support these goals. There is room to reduce the minimum without injury to 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.**

Although the tables are designed for flexibility and have a large number of points available (e.g., the Architectural Standards has 61 total points available), the point minimums are set at a level comparable or higher to similar standards in larger and wealthier communities like Noblesville and Carmel, so while it is possible to meet and exceed these standards, doing so would require development that is likely to be unaffordable for the kinds of households the Town seeks to attract. While some houses already built in Montgomery Farms meet and exceed these standards, the majority do not.

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