

**CITY OF LEBANON
PLANNING AND ZONING DEPARTMENT**

**BOARD OF ZONING APPEALS
STAFF REPORT
APRIL 5, 2021 PUBLIC HEARING**

A. Case Number:	Docket #21-14
B. Applicant:	John Stewart
C. Location:	The subject property is located at 1526 Ashley Drive, Lebanon, Indiana 46052.
D. Acreage and Zoning	The subject property is zoned Single-Family Residential (SF3) and comprised of approximately 0.19 acres. The subject lot configuration is 70 feet wide by 118 feet in depth.
E. Property History:	History of Property: This is the first time the requested Variance has appeared before the City of Lebanon Board of Zoning Appeals. The lot currently contains a single-family residential home with an attached single-car garage and a small accessory structure in the rear yard.
F. Variance Request(s):	Applicant Request: Development Standard Variance Request Variance Request – Accessory Structure Side Setback UDO Section 7.10.A.4 The applicant is seeking to remove an existing small accessory structure in the rear yard and replace it with a larger 16 foot by 22 foot garage. Due to limitations on area and access capabilities, the garage is proposed to be 6 feet from the property line rather than the required 10 feet. Therefore, the applicant is seeking a Development Standard Variance to permit the construction of a detached garage that does not meet the side setback requirement. Lebanon Planning Staff Determination: The applicant presented the intent to construct the garage as submitted on the enclosed site plan. Staff worked with the applicant to reduce the size of the initially proposed garage in order to increase the setback to the current 6 foot proposal. Lebanon Planning Staff evaluated the land use and determined that a Development Standard Variance is required before the City of Lebanon Board of Zoning Appeals.
G. Variance Evaluation:	Evaluation of Variance(s) Statutory Authority of BZA for Reviewing Variances. Pursuant to State Statute and the Lebanon Unified Development Ordinance, the Board of Zoning Appeals must find that each of the following conditions is satisfied in order to grant a variance of use. Per Indiana Code (IC) 36-7-4-918.5; No variance

in the application of the provisions of the ordinance shall be made by the Board relating to buildings, land or premises now existing or to be constructed, unless after a public hearing, the Board shall find, in writing that the variance of use listed above has been reviewed based on the following three (3) statutory criteria:

Statutory Criteria

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

Criteria-2 The use and value of the area adjacent to the property included in the variance will not be affected in a substantial adverse manner.

Criteria-3 The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property.

Staff Evaluation of Development Standard Variances

Variance – Accessory Structure Side Setback

UDO Section 7.10.A.4

The applicant is seeking to remove an existing small accessory structure in the rear yard and replace it with a larger 16 foot by 22 foot garage. Due to limitations on area and access capabilities, the garage is proposed to be 6 feet from the property line rather than the required 10 feet.

Staff Evaluation of Development Standard Variances

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

Staff Analysis

The reduction in the side setback poses no imminent threat to the public health, safety, morals, or general welfare of the community. While the structure will be in closer proximity to the side property line, the request is consistent with how other lots in the neighborhood have been developed and would not overly impose upon the immediate neighbors.

Criteria-2 The use and value of the area adjacent to the property included in the variance will not be affected in a substantial adverse manner.

Staff Analysis

The requested variance in the side setback is compatible with existing development in the neighborhood. Many of the properties in the immediate vicinity of the subject property contain accessory structures with setbacks consistent with or less than the applicant's request. The applicant has also reached out to the neighbor adjacent to the proposed garage location, and this neighbor did not have any particular issues with the proposal.

Criteria -3 The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property.

Staff Analysis

Because the lots and homes in this neighborhood are fairly small, and the subject lot is additionally restricted by the presence of an electric utility easement, the accessory structure setback requirement would require the applicant to locate the detached garage, essentially, in the middle of the back yard and further from the side property line than what is required for the primary structure (7 ½ feet). The development precedent that has been set by neighboring properties includes structures that maintain side setbacks similar to what is being requested by the applicant. The strict application of the terms of the UDO would require the subject property to meet a side setback that is unique in the immediate area.

Staff Recommendation:

The City of Lebanon Planning Staff recommends approval of the Development Standards Variance request to permit the construction of a garage that is 6 feet from the side property line.

**H. Staff
Recommendation:**