

**CITY OF LEBANON
PLANNING AND ZONING DEPARTMENT**

**BOARD OF ZONING APPEALS
STAFF REPORT
OCTOBER 4, 2021 PUBLIC HEARING**

A. Case Number:	Docket #21-56
B. Applicant:	Brian and Catheryn Ferguson
C. Location:	The subject property is located at 403 N Lebanon Street, Lebanon, Indiana 46052.
D. Acreage and Zoning	The subject property is zoned Multi-Family Residential (MF), is within the Thoroughfare Overlay District, and is comprised of approximately 0.12 acres. The subject lot configuration is 60 feet wide and 87 feet in depth.
E. Property History:	History of Property: This is the first time the requested Variance of Use has appeared before the City of Lebanon Board of Zoning Appeals. The subject property was previously used for a professional office (CPA) and a residence.
F. Variance Request(s):	Applicant Request: Variance of Use Request Variance Request – Music Studio and Single-Family Residential Use in the Multi-Family Residential (MF) Zoning District UDO Section 4.9.B The applicant is seeking to use a portion of the subject structure for a business (music studio) and the remaining portion as their residence. The site will have two off street parking spaces for the music lessons and a single-car garage and driveway for the resident’s personal use. There is additionally one on-street parking space adjacent to the property. Single-Family Dwellings and businesses are not a permitted use within the MF zoning district, therefore Lebanon Planning Staff determined that a Variance of Use application was necessary.
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) 36-7-4-918.4; 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 five (5) 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 need for the variance arises from some condition peculiar to the property involved.

Criteria-4 The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought.

Criteria-5 The approval does not interfere substantially with the City of Lebanon Comprehensive Plan.

Staff Evaluation of Variance of Use

UDO Section 4.9.B

Music Studio and Single-Family Residential Use in MF Zoning District

The applicant is seeking to use a portion of the subject structure for a business (music studio) and the remaining portion as their residence. Single-Family Dwellings and businesses are not a permitted use within the MF zoning district.

Staff Evaluation of Variance of Use

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

Staff Analysis

The variance of use to permit a single-family residence and music studio on the subject property will not be injurious to the public health, safety, morals, and general welfare of the community. The lot is sized appropriately for a single-family home, has the necessary parking for the music studio, and will not cause any adverse effects to the adjacent properties.

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 use variance would not impact the use and value of the area adjacent to the property in an adverse manner. The proposed single-family use of the property is consistent with the adjacent area, which primarily consists of additional residential uses and the property has historically been used for low impact businesses, so the music studio would not be out of place given the property's history.

Criteria-3 The need for the variance arises from some condition peculiar to the property involved.

Staff Analysis

The property is currently zoned for multi-family uses; however, the surrounding neighborhood contains a mix of single-family and multi-family uses, as well as several businesses. The applicant's request would continue the use of the property as a residence and low impact business, in this case a music studio.

Criteria-4 The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought.

The lot is not sized appropriately to accommodate the uses permitted within the multi-family zoning district and would be unusable if only uses permitted by the zoning district were allowed.

Criteria-5 The approval does not interfere substantially with the City of Lebanon Comprehensive Plan.

The City of Lebanon Comprehensive Plan designates this property for residential uses. The applicant's proposal does not interfere with this land use designation.

**H. Staff
Recommendation:**

Staff Recommendation:

The City of Lebanon Planning Staff recommends approval of the Variance of Use request to permit a single-family residential use and music studio within the Multi-Family Residential (MF) zoning classification.