

**CITY OF LEBANON
PLANNING AND ZONING DEPARTMENT**

**BOARD OF ZONING APPEALS
STAFF REPORT
FEBRUARY 1, 2021 PUBLIC HEARING**

| | |
|--------------------------------|---|
| A. Case Number: | Docket #21-8 |
| B. Applicant: | Doug and Mary Beth Searles |
| C. Location: | The subject property is located at 1621 Douglas Lane, Lebanon, Indiana 46052. |
| D. Acreage and Zoning | The subject property is zoned Single-Family Residential (SF2) and comprised of approximately 0.31 acres. The subject lot configuration is 60 feet wide by 180 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 garage. The current garage is approximately 3 feet from the side property line and is a legally existing non-conforming structure. |
| F. Variance Request(s): | Applicant Request: Development Standard Variance Request Variance Request – Primary Structure Side Setback UDO Section 4.6.D The applicant is seeking to demolish the existing two car garage and replace it with a new garage and home addition to the rear. The process to tear down the existing structure and rebuild new requires the new structure to meet all applicable UDO requirements. The Unified Development Ordinance requires primary structures to maintain a setback of 7 ½ feet on side property lines. Therefore, the applicant is seeking a Development Standard Variance to permit the construction of an attached garage and home addition that does not meet the side setback requirement. Lebanon Planning Staff Determination: The applicant presented the intent to construct the garage and home addition as submitted on the enclosed site plan. 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 – Primary Structure Side Setback

UDO Section 4.6.D

The applicant is seeking to construct a two car garage and home addition that is 2.8 feet from the side (south) property line, as opposed to adhering to the UDO requirement that primary structures must be 7.5 feet from the side property line.

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. The applicant intends to improve upon a structure that has existed for many years. 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 attached garages with setbacks consistent with the applicant's request. Updating the garage and adding the home addition on the subject property will effectively add value to the immediate property and area and will not adversely affect the use of adjacent properties. In addition, the proposed garage replaces an existing non-conforming garage that is in a similar location to that proposed in this application.

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

The existing garage is a legally existing non-conforming structure that is permitted to maintain its current setback from the side property line unless or until it is removed. The variance is needed because the condition of the current garage warrants its demolition. 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 and home addition that is 2.8 feet from the side property line.

**H. Staff
Recommendation:**