

**CITY OF LEBANON
PLANNING AND ZONING DEPARTMENT**

**BOARD OF ZONING APPEALS
STAFF REPORT
JANUARY 4, 2022 PUBLIC HEARING**

A. Case Number:	Docket #21-59
B. Applicant:	Headley Condominiums Association
C. Location:	The subject property is located at 310 N West Street, Lebanon, Indiana 46052.
D. Acreage and Zoning	The subject property is zoned Multi-Family Residential (MF) and comprised of approximately 0.34 acres. The subject lot configuration is 122 feet wide by 120 feet in depth.
E. Property History:	<p>History of Property: This is the second time the requested Variance has appeared before the City of Lebanon Board of Zoning Appeals. In 2001, the Headley Condo Association requested a building permit to construct a covered carport structure over the 12 parking spaces along the west side of the subject lot. The Planning Department approved the permit without requesting a site plan indicating the location of the carport structure. Once construction commenced, it was discovered the carport extended into the front setback along West Street, approximately 6 feet from the front property line. The Planning Department indicated to Headley Condos that they would either need to request a variance to allow the structure to remain or remove the structure covering the front two parking spaces. The Variance was requested and at the December 3, 2001 meeting, the request was denied.</p>
F. Variance Request(s):	<p style="background-color: #e0e0e0;">Applicant Request: Development Standard Variance Request</p> <p>Variance Request – Accessory Structure Front Setback UDO Section 7.10.A.4 The UDO states that accessory structures shall be located no closer to the front lot line than the building façade line of the principal structure. The applicant is requesting to extend the carport structure toward the front property line to cover the remaining two parking spaces, leaving a front setback of approximately 6 feet. The setback of the principal structure is approximately 30 feet from West Street. The request is the same as what was requested and denied at the December 2001 BZA meeting.</p> <p>Lebanon Planning Staff Determination: The applicant presented the intent to construct the carport as submitted on the enclosed site plan. Lebanon Planning Staff evaluated the proposed project and determined that a Development Standard Variance is required before the City of Lebanon Board of Zoning Appeals.</p>

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 Rear Setback

UDO Section 7.10.A.4

The UDO states that accessory structures shall be located no closer to the front lot line than the building façade line of the principal structure. The applicant is requesting to extend the carport structure toward the front property line to cover the remaining two parking spaces, leaving a front setback of approximately 6 feet. The setback of the principal structure is approximately 30 feet from West Street.

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 proposed front setback poses no imminent threat to the public health, safety, morals, or general welfare of the community. While the proposed structure would only maintain a 6-foot setback from the front property line, its location would not cause any visibility issues for drivers using the adjacent alley to enter onto West Street.

Criteria-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.

Staff Analysis

The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner. While the proposed structure would impact the views of the adjacent home to the west (316 W North St), it is not anticipated this would substantially impact the use and value of the home.

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 strict application of the terms of the Unified Development Ordinance will NOT result in practical difficulties in the use of the property. In order to meet the practical difficulty standard, the applicant would need to demonstrate that strict compliance with the UDO would represent an unnecessary hardship warranting the variance request. An unnecessary hardship must be particular and unique to the subject property, not something that is general to the neighborhood. In this case, the front setback as applied to this property is not in any way unique to the subject property. It is not unnecessarily burdensome to this particular property or any more burdensome to this property than any other property in the area. In addition, hardships considered by the BZA should be based on the particulars of the property or some condition peculiar to the physical property involved, not the personal circumstances of the applicant or property owner. While parking spaces can be permitted within the front building setback, there should be no expectation those same spaces can be covered by an accessory structure if it does not also meet setback requirements for said structure.

**H. Staff
Recommendation:**

Staff Recommendation:

The City of Lebanon Planning Staff recommends **DENIAL** of the Development Standards Variance request to allow the construction of a carport that does not meet the accessory structure front setback requirement.