

**CITY OF LEBANON
PLANNING AND ZONING DEPARTMENT**

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

Case Number:	Docket #22-28
Applicant:	Adam DeHart for Mann Brothers Holdings, LLC
Location:	The subject property is located at 845 Indianapolis Avenue, Lebanon, Indiana 46052.
Acreage and Zoning	The subject property is zoned Planned Business Commercial (PBC) and in the Thoroughfare Overlay District and comprised of 0.862 acres.
Property History:	<p>History of Property: This is the first time the requested Development Standards Variances have appeared before the City of Lebanon Board of Zoning Appeals. The property is currently a vacant commercial building.</p> <p>Lebanon Planning Staff Determination: Mann Brothers Holdings presented the intent to construct an automobile fueling station with a 2400 square foot convenience store and four fueling dispensers. Upon review of the conceptual site plans, Staff identified several variances necessary in order to develop the site as proposed.</p>
Variance Request(s):	<p>Applicant Request: Development Standard Variance Request</p> <p>Variance Request #1 – Front Building Setback UDO Section 4.13.D Because the subject property is located within the Thoroughfare Overlay District, a 20-foot buffer yard is required along Indianapolis Avenue in addition to the front building setback of 50 feet in the PBC zoning district. This would require the building and fueling canopy to be setback a minimum of 70 feet from the front property line, which would essentially render the site useless given the other buffer and setback requirements. The applicant is requesting relief from the front building setback requirement to allow the building and canopy to be setback 50 feet from Indianapolis Avenue rather than the required minimum of 70 feet.</p> <p>Variance Request #2 – Front Parking Setback UDO Section 7.5.F.2.i Because the subject property is located within the Thoroughfare Overlay District, a 20-foot buffer yard is required along Indianapolis Avenue in addition to the front parking setback of 10 feet. This would require the parking lot to be setback a minimum of 30 feet from the front property line, which significantly restricts the usability of the site. The applicant is requesting relief from the front parking setback</p>

requirement to allow the parking to be setback 20 feet from Lebanon Street rather than the required minimum of 30 feet.

Variance Request #3 – Landscape Buffer Requirements

UDO Table 7.10

The property adjacent to the subject property is zoned General Industrial (ID). When a property zoned PBC is adjacent to ID property, a 25-foot buffer yard is required including a 6-foot opaque privacy fence and tree/shrub plantings. Given the restricted depth of this property, the buffer width would essentially render the site useless given other buffer and setback requirements. The applicant is requesting relief from the landscape buffer requirements to allow a 10-foot buffer width at the side/rear of the property where adjacent to the neighboring ID zoning district.

Variance Request #4 – Rear Parking Setback

UDO Section 7.5.F.2.i

The property adjacent to the subject property is zoned General Industrial (ID). When a property zoned PBC is adjacent to ID property, a 25-foot buffer yard is required in addition to the rear parking setback of 5 feet for a total of 30 feet. The applicant has requested relief from the buffer width to allow for a 10-foot buffer, meaning the parking would need to be setback a total of 15 feet. Requiring the combined setback on this property would, again, significantly restrict its usability, thus the applicant is requesting relief from the parking setback requirement to allow for a 10-foot setback rather than the required 15 feet.

Variance Request #5 – Side Building Setback

UDO Section 4.13.D

The property adjacent to the subject property is zoned General Industrial (ID). When a property zoned PBC is adjacent to ID property, a 25-foot buffer yard is required in addition to the side building setback of 15 feet for a total of 40 feet. The applicant has requested relief from the buffer width to allow for a 10-foot buffer, meaning the building and canopy would need to be setback a total of 25 feet. Even with the reduced buffer width, the 25-foot setback significantly restricts the buildable area, thus the applicant is requesting relief from the side building setback to allow the building and canopy to be setback 10.5 feet from the side property line.

Variance Request #6 – Rear Building Setback

UDO Section 4.13.D

The property adjacent to the subject property is zoned General Industrial (ID). When a property zoned PBC is adjacent to ID property, a 25-foot buffer yard is required in addition to the rear building setback of 10 feet for a total of 35 feet. The applicant has requested relief from the buffer width to allow for a 10-foot buffer, meaning the building and canopy would need to be setback a total of 20 feet. Even with the reduced buffer width, the 20-foot setback significantly restricts the buildable area, thus the applicant is requesting relief from the rear building setback to allow the building and canopy to be setback 10.5 feet from the rear property line.

<p>Variance Evaluation:</p>	<p>Variance Request #7 – Gas/Fueling Station Specific Use Standards UDO Section 7.21.A.3 The UDO specifies that fuel sales shall be limited to no more than one per block. A block is defined as property abutting one side of a street and lying between the two nearest intersecting streets (either crossing or terminating). For the subject property, the block is defined as the abutting properties on the northeast side of Indianapolis Avenue between Spencer Avenue and Grant Street. Within this block, there is an existing fueling station (Casey’s General Store), thus no additional fueling stations would be permitted. The applicant is requesting relief from this requirement to allow a second fueling station within one block.</p> <p>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 from the development standards in the Ordinance. 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 each of development standard variances listed above has been reviewed based on the following (3) statutory criteria:</p> <p style="text-align: center;">Statutory Criteria</p> <p><i>Criteria-1 The approval will not be injurious to the public health, safety, morals, and general welfare of the community.</i></p> <p><i>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.</i></p> <p><i>Criteria-3 The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property.</i></p>
<p>Variance #1:</p>	<p>Staff Evaluation of Development Standard Variances</p> <p>Variance Request #1 – Front Building Setback UDO Section 4.12.D The applicant is requesting relief from the front building setback requirement to allow the building to be setback 50 feet from Indianapolis Avenue rather than the required minimum of 70 feet.</p> <p style="text-align: center;">Staff Evaluation of Development Standard Variances</p> <p><i>Criteria-1 The approval will not be injurious to the public health, safety, morals, and general welfare of the community.</i></p>

	<p>Staff Analysis The relief from the front building setback requirement poses no imminent threat to the public health, safety, morals, or general welfare of the community. The building would still maintain a setback of 50 feet from the front property line, allowing plenty of visibility for motorists along Indianapolis and Spencer Avenue.</p> <p>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.</p> <p>Staff Analysis The requested variance for the front building setback will not affect the use and value of the area adjacent to the property in an adverse manner. The proposed setback of 50 feet is consistent with adjacent property setbacks or, in fact, more significant in most cases. Adjacent structures are setback anywhere from 10 to 25 feet. In addition, the applicant is proposing to install the 20-foot buffer and plantings along Indianapolis Avenue where there currently is none.</p> <p>Criteria -3 The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property.</p> <p>Staff Analysis The strict application of the terms of the UDO will result in practical difficulties in the use of the property. The addition of the thoroughfare overlay buffer requires the proposed property to maintain a front setback that is at least double the setback of any adjacent property. With the installation of the required buffer plantings and a proposed setback of 50 feet, the proposed condition is an improvement to adjacent existing commercial properties.</p>
<p>Staff Recommendation:</p>	<p>Staff Recommendation: The City of Lebanon Planning Staff recommends approval of the Development Standards Variance request to permit relief from the front building setback requirement of the Planned Business Commercial zoning district.</p>
<p>Variance #2:</p>	<p>Variance Request #2 – Front Parking Setback UDO Section 7.5.F.2.i</p> <p>The applicant is requesting relief from the front parking setback requirement to allow the parking to be setback 20 feet from Lebanon Street rather than the required minimum of 30 feet.</p> <p>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.</p> <p>Staff Analysis The relief from the front parking setback requirement poses no imminent threat to the public health, safety, morals, or general welfare of the community. With the</p>

	<p>proposed setback of 20 feet, there will be no visibility issues for motorists on adjacent side streets.</p> <p><i>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.</i></p> <p><i>Staff Analysis</i> The requested variance for front parking setback will not affect the use and value of the area adjacent to the property in an adverse manner. The proposed setback of 20 feet is consistent or more significant than adjacent commercial parking lots.</p> <p><i>Criteria -3 The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property.</i></p> <p><i>Staff Analysis</i> The strict application of the terms of the UDO will result in practical difficulties in the use of the property. The addition of the thoroughfare overlay buffer requires the proposed property to maintain a front parking setback that is at least 10 feet more than any adjacent parking setback, in some cases the difference is much more than this. With the installation of the required buffer plantings and a proposed setback of 20 feet, the proposed condition is an improvement to adjacent existing commercial properties.</p>
Staff Recommendation:	Staff Recommendation: The City of Lebanon Planning Staff recommends approval of the Development Standards Variance request to permit relief from the front parking setback requirement of the Planned Business Commercial zoning district.
Variance #3:	Variance Request #3 – Landscape Buffer Requirements UDO Table 7.10 The applicant is requesting relief from the landscape buffer requirements to allow for a 10-foot buffer width rather than the required 25 feet.
	Staff Evaluation of Development Standard Variances <i>Criteria-1 The approval will not be injurious to the public health, safety, morals, and general welfare of the community.</i> <i>Staff Analysis</i> The relief from the landscape buffer requirement poses no imminent threat to the public health, safety, morals, or general welfare of the community. The proposed project will still maintain the required buffer improvements within the reduced width.

<p>Staff Recommendation:</p>	<p><i>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.</i></p> <p><i>Staff Analysis</i> The requested variance for the landscape buffer width reduction will not affect the use and value of the area adjacent to the property in an adverse manner. The existing property does not provide a buffer at all, so the proposed 10-foot buffer width represents an improvement over the current conditions.</p> <p><i>Criteria -3 The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property.</i></p> <p><i>Staff Analysis</i> The strict application of the terms of the UDO will result in practical difficulties in the use of the property. The buffer requirement of 25 feet, when combined with other required buffers and setbacks would essentially render the site unbuildable. The proposal would provide a buffer where one doesn't currently exist.</p>
<p>Variance #4:</p>	<p>Staff Recommendation: The City of Lebanon Planning Staff recommends approval of the Development Standards Variance request to permit relief from the landscape buffer requirements of the Planned Business Commercial zoning district.</p> <p>Variance Request #4 – Rear Parking Setback UDO Section 7.5.F.2.i</p> <p>The applicant is requesting relief from the rear parking setback requirement to allow for a 10-foot setback rather than the required 30 feet.</p> <p>Staff Evaluation of Development Standard Variances</p> <p><i>Criteria-1 The approval will not be injurious to the public health, safety, morals, and general welfare of the community.</i></p> <p><i>Staff Analysis</i> The relief from the rear parking setback requirement poses no imminent threat to the public health, safety, morals, or general welfare of the community. The parking will still maintain an adequate setback from the adjacent industrial property.</p> <p><i>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.</i></p> <p><i>Staff Analysis</i> The requested variance for rear parking setback will not affect the use and value of the area adjacent to the property in an adverse manner. The proposed setback of 10 feet along with the proposed buffer plantings will provide significant screening from the adjacent property in an area where there currently is no setback.</p>

	<p><i>Criteria -3 The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property.</i></p> <p><i>Staff Analysis</i> The strict application of the terms of the UDO will result in practical difficulties in the use of the property. The buffer requirement of 25 feet plus the parking setback of 5 feet would be a more significant parking setback than any adjacent commercial property that, in some cases, maintain a 0- to 5-foot setback.</p>
Staff Recommendation:	<p>Staff Recommendation: The City of Lebanon Planning Staff recommends approval of the Development Standards Variance request to permit relief from the rear parking setback requirement of the Planned Business Commercial zoning district.</p>
Variance #5:	<p>Variance Request #5 – Side Building Setback UDO Section 4.12.D</p> <p>The applicant is requesting relief from the side building setback requirement to allow for a 10.5-foot setback rather than the required 40 feet.</p> <p>Staff Evaluation of Development Standard Variances</p> <p><i>Criteria-1 The approval will not be injurious to the public health, safety, morals, and general welfare of the community.</i></p> <p><i>Staff Analysis</i> The relief from the side building setback requirement poses no imminent threat to the public health, safety, morals, or general welfare of the community. The proposed setback would not cause any issues for the adjacent industrial property.</p> <p><i>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.</i></p> <p><i>Staff Analysis</i> The requested variance for side building setback will not affect the use and value of the area adjacent to the property in an adverse manner. The proposed setback of 10.5 feet along with the proposed buffer plantings will provide significant screening from the adjacent properties.</p> <p><i>Criteria -3 The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property.</i></p> <p><i>Staff Analysis</i> The strict application of the terms of the UDO will result in practical difficulties in the use of the property. The buffer requirement of 25 feet plus the building setback of 15 feet would be a more significant building setback than any adjacent commercial property that, in some cases, maintain 0- to 10-foot setbacks.</p>

Variance #7:	<p>Variance Request #7 – Gas/Fueling Station Specific Use Standards UDO Section 7.21.A.3</p> <p>The applicant is requesting relief from the requirement of no more than one fueling station per block to allow a second fueling station.</p> <p style="text-align: center;">Staff Evaluation of Development Standard Variances</p> <p><i>Criteria-1 The approval will not be injurious to the public health, safety, morals, and general welfare of the community.</i></p> <p><i>Staff Analysis</i> The relief from the automobile fueling station limitation poses no imminent threat to the public health, safety, morals, or general welfare of the community.</p> <p><i>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.</i></p> <p><i>Staff Analysis</i> The requested variance for relief from the fueling station limitation will not affect the use and value of the area adjacent to the property in an adverse manner. The proposed use and improvements, including a new building and significant landscaping, will likely increase values in the area.</p> <p><i>Criteria -3 The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property.</i></p> <p><i>Staff Analysis</i> The applicant has NOT presented evidence that the strict application of the terms of the UDO will result in practical difficulties in the use of the property. The UDO defines a block as property abutting one side of a street and lying between the two nearest intersecting streets (either crossing or terminating). The fact that the address numbering changes from the 700 block to the 800 block is irrelevant as the block definition is strictly defined by intersecting streets, not block numbering. In addition, the presence of alleys within the block does not define the start of a new block as the block definition is strictly defined by intersecting streets. Alleys, by definition, do not create the edge of a block. The restriction of one fueling station per block is not creating a unique burden on the subject property that is not found in other blocks in other parts of the community. The subject block is approximately 725 feet in length. The length is slightly above average, but by no means the longest block within the city (several are over 1000 feet in length). In addition, the subject property corner is only 300 feet from the property corner where Casey’s General Store is located, so there is not a significant distance between the properties. Finally, an automobile fueling station is not the only permitted or viable use on the subject PBC zoned property. The strict application of the terms of the Unified Development Ordinance will NOT result in practical difficulties in the use of the property.</p>
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Staff Recommendation:

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The City of Lebanon Planning Staff recommends **DENIAL** of the Development Standards Variance request to permit relief from the Gas/Fueling Station Specific Use Standards of the Unified Development Ordinance.