

**CITY OF LEBANON
PLANNING AND ZONING DEPARTMENT**

**BOARD OF ZONING APPEALS
STAFF REPORT
JUNE 6, 2022 PUBLIC HEARING**

A. Case Number:	Docket #22-42
B. Applicant:	Mark and Hayes Henderson
C. Location:	The subject property is located at 528 W Walnut Street, Lebanon, Indiana 46052.
D. Acreage and Zoning	The subject property is zoned Single-Family Residential (SF2) and comprised of approximately 0.15 acres. The subject lot configuration is 85 feet wide by 70 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 a small accessory structure. There is no garage, so car parking is currently provided in the driveway.
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 20 foot by 20 foot garage. Due to limitations on area and access capabilities, the garage is proposed to be 1 foot 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. 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 20 foot by 20 foot garage. Due to limitations on area and access capabilities, the garage is proposed to be 1 foot 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.

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, there is essentially no location where the accessory structure could be placed and meet the

required setback. 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.

**H. Staff
Recommendation:**

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 1 foot from the side property line subject to the following condition:

1. That the applicant obtain a survey by a licensed land surveyor to verify the garage location and the proposed 1 foot setback.