

**CITY OF LEBANON
PLANNING AND ZONING DEPARTMENT**

**BOARD OF ZONING APPEALS
STAFF REPORT
FEBRUARY 7, 2022 PUBLIC HEARING**

A. Case Number:	Docket #22-6
B. Applicant:	Danielle Hoffman
C. Location:	The subject property is located at 100 Smith Street, Lebanon, IN 46052.
D. Acreage and Zoning	The subject property is zoned Planned Business Commercial (PBC) and comprised of 0.74 acres. The subject lot configuration is approximately 119' wide x 267' in depth.
E. Property History:	History of Property: This is the first time the requested Development Standard Variance has appeared before the City of Lebanon Board of Zoning Appeals. The subject property currently contains That Sports Bar along with associated customer parking and outdoor entertaining area.
F. Variance Request(s):	Applicant Request: Development Standard Variance Request Variance Request – Non-Residential Fence Height and Opacity UDO Sections 7.14.C.2 The applicant is proposing to make significant improvements to their outdoor seating and entertaining area to the rear (north side) of their existing facility. The outdoor area will be the same size as it is currently and will be enclosed by an approximately 5-foot tall wall (60 inches) constructed of landscaping blocks that will be completely opaque for privacy considerations. The wall is approximately 14-15 feet from the north property line. While this area is to the rear of the building, the property extends from South Street to Main Street, meaning both the south and north property lines are considered front yards. Because of this, the location of the wall is considered a front yard and is restricted to 48 inches and must be a minimum 50% open. The applicant has requested a variance from the height and opacity requirements to allow the construction of a landscape block wall within the front yard.
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 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:

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 – Non-Residential Fence Height and Opacity

UDO Section 7.14.C.2

The applicant is seeking relief from the fence height restriction and the 50% open requirement in any front yard to permit a 5-foot tall landscape block wall.

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

Relief from the fence height and opacity requirements in a front yard poses no imminent threat to the public health, safety, morals, or general welfare of the community. While the fence is located within the front yard along the property line adjacent to Main Street, its location is approximately 15 feet from the property line and does not cause any sight line issues along the roadway.

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. The proposed project will make significant improvements to the property and will provide better privacy and screening for the outdoor seating and entertainment area. The use of the outdoor area will not change or become more intense than what currently exists.

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 result in practical difficulties in the use of the property. Because the property has double frontage, what is essentially the rear of the building, where a privacy fence would typically be permitted, in this case is located within a front yard. In fact, this property has public streets on three sides, so there is no location where the proposed wall could be constructed. A wall at the permitted 48 inch height would not provide the desired privacy and screening for the outdoor patio.

**H. Staff
Recommendation:**

Staff Recommendation:

The City of Lebanon Planning Staff recommends approval of the Development Standards Variance request to permit a 5-foot landscape block wall located in a front yard subject to the following condition:

1. That the applicant install a landscape bed including tree and shrub plantings along the north perimeter of the wall to provide further screening along the Main Street frontage.