

**CITY OF LEBANON  
PLANNING AND ZONING DEPARTMENT**

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

<b>Case Number:</b>	<b>Docket #22-7</b>
<b>Applicant:</b>	<b>John Lasley</b>
<b>Location:</b>	The subject property is located at 911 Indianapolis Avenue, Lebanon, Indiana 46052.
<b>Acreage and Zoning</b>	The subject property is zoned General Industrial (ID) and within the Thoroughfare Overlay District and is comprised of 0.41 acres.
<b>Property History:</b>	<p><b>History of Property:</b> This is the first time the requested Development Standards Variances have appeared before the City of Lebanon Board of Zoning Appeals. The site is currently a gravel overflow parking area for Tru-Finds, which is located along Indianapolis Avenue. The subject area is directly adjacent to Spencer Avenue.</p> <p><b>Lebanon Planning Staff Determination:</b> The applicant is proposing to repurpose the subject property as a retail nursery and bulk landscape material center. The initial plans include the installation of landscape block enclosures for the bulk landscape materials and an area for the display of retail landscape materials (trees, shrubs, perennials, etc.). The applicant is also proposing to install a landscape buffer treatment along Spencer Avenue to screen the operation from the thoroughfare.</p>
<b>Variance Request(s):</b>	<p>The proposed bulk landscape materials are considered outdoor storage, which is not permitted in the Thoroughfare Overlay District.</p> <p style="background-color: #e0e0e0;"><b>Applicant Request: Development Standard Variance Request</b></p> <p><b>Variance Request #1 – Outdoor Storage</b> <b>UDO Section 6.1.H.16</b> The Thoroughfare Overlay District does not permit outdoor storage. The applicant is requesting relief from this requirement to allow the installation of enclosures for the storage of bulk materials.</p> <p><b>Variance Request #2 – Thoroughfare Corridor Buffer</b> <b>UDO Section 6.1.L.3.c</b> The UDO requires a Thoroughfare Corridor Buffer width of 20 feet. Due to the restricted lot depth, the applicant is proposing to decrease the buffer width requirement to approximately 10 feet to allow for the placement of the retail nursery materials along Spencer Avenue.</p>

<p><b>Variance Evaluation:</b></p>	<p><b>Variance Request #3 – Display Area Paving</b> <b>UDO Section 7.13.A.4</b> The UDO requires areas used for outdoor sales or display shall be concrete, asphalt or other permanent paving material. The applicant is proposing to maintain the existing gravel area where installing the bulk material pits and retail nursery.</p> <p><b>Variance Request #4 – Maximum Area for Outdoor Sales</b> <b>UDO Section 7.13.A.6</b> The UDO allows a maximum of 10% of the principal structure for outdoor sales or display. Because the proposed use does not currently involve a principal structure, the entire use would be outdoor sales.</p> <p><b>Variance Request #5 – Storage in Required Yards</b> <b>UDO Section 7.13.B.6.a</b> The UDO permits the storage of materials in a non-residential district, but only within a fully enclosed structure. The applicant is proposing the outdoor storage of bulk landscape materials and sales display, excluding the enclosed structure.</p> <p><b>Evaluation of Variance(s)</b> 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;"><b>Statutory Criteria</b></p> <p><b><i>Criteria-1 The approval will not be injurious to the public health, safety, morals, and general welfare of the community.</i></b></p> <p><b><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></b></p> <p><b><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></b></p> <hr/>
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<p><b>Variance #1:</b></p>	<p><b>Staff Evaluation of Development Standard Variances</b></p> <p><b>Variance Request – Outdoor Storage</b> <b>UDO Section 6.1.H.16</b></p> <p>The Thoroughfare Overlay District does not permit outdoor storage. The applicant is requesting relief from this requirement to allow the installation of enclosures for the storage of bulk materials.</p> <p><b>Staff Evaluation of Development Standard Variances</b></p> <p><b><i>Criteria-1 The approval will not be injurious to the public health, safety, morals, and general welfare of the community.</i></b></p> <p><b><i>Staff Analysis</i></b> The relief from the outdoor storage requirement poses no imminent threat to the public health, safety, morals, or general welfare of the community.</p> <p><b><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></b></p> <p><b><i>Staff Analysis</i></b> The requested variance for relief from the outdoor storage requirement will not affect the use and value of the area adjacent to the property in an adverse manner. The outdoor storage will be appropriately screened from Spencer Avenue to reduce visibility from passing motorists.</p> <p><b><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></b></p> <p><b><i>Staff Analysis</i></b> The strict application of the terms of the UDO will result in practical difficulties in the use of the property. To meet the outdoor storage requirements, a fully enclosed structure is necessary, however, the buffer and setback requirements would not allow the construction of a structure on this property, rendering the site unusable for anything other than parking.</p>
<p><b>Staff Recommendation:</b></p>	<p><b>Staff Recommendation:</b></p> <p>The City of Lebanon Planning Staff recommends approval of the Development Standards Variance request to permit relief from the outdoor storage requirement of the Unified Development Ordinance subject to the following condition:</p> <ol style="list-style-type: none"><li>1. That the applicant install a landscape buffer along Spencer Avenue to include an evergreen tree planting every 15 feet.</li></ol>

<b>Variance #2:</b>	<p><b>Variance Request #2 – Thoroughfare Corridor Buffer</b> <b>UDO Section 6.1.L.3.c</b></p> <p>The UDO requires a Thoroughfare Corridor Buffer width of 20 feet. Due to the restricted lot depth, the applicant is proposing to decrease the buffer width requirement to approximately 10 feet to allow for the placement of the retail nursery materials along Spencer Avenue.</p> <p style="text-align: center;"><b>Staff Evaluation of Development Standard Variances</b></p> <p><b><i>Criteria-1 The approval will not be injurious to the public health, safety, morals, and general welfare of the community.</i></b></p> <p><b><i>Staff Analysis</i></b> The relief from the corridor buffer requirement poses no imminent threat to the public health, safety, morals, or general welfare of the community. The applicant will still provide adequate landscaping along the Spencer Avenue frontage to provide screening from passing motorists.</p> <p><b><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></b></p> <p><b><i>Staff Analysis</i></b> The requested variance for the corridor buffer width will not affect the use and value of the area adjacent to the property in an adverse manner. The applicant will still provide adequate landscaping along the Spencer Avenue frontage to provide screening from passing motorists and will be closing off the existing drive access to clean up the right-of-way.</p> <p><b><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></b></p> <p><b><i>Staff Analysis</i></b> The strict application of the terms of the UDO will result in practical difficulties in the use of the property. Because of the narrow property depth, meeting the buffer width requirement would significantly restrict the usable area. In addition, the applicant has committed to using the adjacent area for retail plant materials, which will effectively provide additional screening for the property.</p>
<b>Staff Recommendation:</b>	<p><b>Staff Recommendation:</b></p> <p>The City of Lebanon Planning Staff recommends approval of the Development Standards Variance request to permit relief from the corridor buffer requirement of the Unified Development Ordinance subject to the following condition:</p> <ol style="list-style-type: none"><li>1. That the applicant restrict use of the property within 20 feet of the Spencer Avenue property line to only retail plant material sales. No bulk material storage can be located any closer than 20 feet to said property line.</li></ol>

<p><b>Variance #3:</b></p>	<p><b>Variance Request #3 – Display Area Paving</b>  <b>UDO Section 7.13.A.4</b></p> <p>The UDO requires areas used for outdoor sales or display shall be concrete, asphalt or other permanent paving material. The applicant is proposing to maintain the existing gravel area where installing the bulk material pits and retail nursery.</p> <p style="text-align: center;"><b>Staff Evaluation of Development Standard Variances</b></p> <p><b><i>Criteria-1 The approval will not be injurious to the public health, safety, morals, and general welfare of the community.</i></b></p> <p><b><i>Staff Analysis</i></b>      The relief from the display area paving requirement poses no imminent threat to the public health, safety, morals, or general welfare of the community. The property is currently gravel and will be maintain with the proposed project.</p> <p><b><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></b></p> <p><b><i>Staff Analysis</i></b>      The requested variance for display area paving will not affect the use and value of the area adjacent to the property in an adverse manner. The area is currently gravel and will be maintained as gravel with the proposed project. There will be no change to the conditions of the property with the applicant’s project.</p> <p><b><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></b></p> <p><b><i>Staff Analysis</i></b>      The strict application of the terms of the UDO will result in practical difficulties in the use of the property. The applicant is proposing to maintain the current conditions on the property, which are adequate for the proposed use. In order to meet the paving standards, the applicant would also need to ensure that proper drainage is provided, which would be a significant additional improvement given the type of project proposed.</p>
<p><b>Staff Recommendation:</b></p>	<p><b>Staff Recommendation:</b>      The City of Lebanon Planning Staff recommends approval of the Development Standards Variance request to permit relief from the display area paving requirements of the Unified Development Ordinance.</p>
<p><b>Variance #4:</b></p>	<p><b>Variance Request #4 – Maximum Area for Outdoor Sales</b>  <b>UDO Section 7.13.A.6</b></p> <p>The UDO allows a maximum of 10% of the principal structure for outdoor sales or display. Because the proposed use does not currently involve a principal structure, the entire use would be outdoor sales.</p>

	<b>Staff Evaluation of Development Standard Variances</b>
	<p><b><i>Criteria-1 The approval will not be injurious to the public health, safety, morals, and general welfare of the community.</i></b></p> <p><b><i>Staff Analysis</i></b> The relief from the maximum area for outdoor sales requirement poses no imminent threat to the public health, safety, morals, or general welfare of the community.</p> <p><b><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></b></p> <p><b><i>Staff Analysis</i></b> The requested variance for the maximum area for outdoor sales will not affect the use and value of the area adjacent to the property in an adverse manner. The proposed use is outdoor sales, with no principal structure proposed. The addition of the materials display area will not have any impact on adjoining properties and the proposed landscaping along Spencer Avenue will provide an appropriate screen for passing motorists.</p> <p><b><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></b></p> <p><b><i>Staff Analysis</i></b> The strict application of the terms of the UDO will result in practical difficulties in the use of the property. The proposed use is essentially limited to outdoor sales and no principal structure is proposed, nor would there be any space to erect one that meets the applicable setbacks.</p>
<b>Staff Recommendation:</b>	<b>Staff Recommendation:</b>
	<p>The City of Lebanon Planning Staff recommends approval of the Development Standards Variance request to permit relief from the maximum area for outdoor sales requirements of the Unified Development Ordinance.</p>
<b>Variance #5:</b>	<b>Variance Request #5 – Storage in Required Yards</b> <b>UDO Section 7.13.B.6.a</b>
	<p>The UDO permits the storage of materials in a non-residential district, but only within a fully enclosed structure. The applicant is proposing the outdoor storage of bulk landscape materials and sales display, excluding the enclosed structure.</p>
	<b>Staff Evaluation of Development Standard Variances</b>
	<p><b><i>Criteria-1 The approval will not be injurious to the public health, safety, morals, and general welfare of the community.</i></b></p> <p><b><i>Staff Analysis</i></b> The relief from the storage in required yards requirement poses no imminent threat to the public health, safety, morals, or general welfare of the community.</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.***

***Staff Analysis***

The requested variance for storage in required yards will not affect the use and value of the area adjacent to the property in an adverse manner. The variance will allow the installation of block enclosures for bulk landscape materials and a sales display area for retail nursery plants. These components, while not in a fully enclosed structure, will be enclosed and property screened from the adjacent roadway.

***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 UDO will result in practical difficulties in the use of the property. Because of the limited depth of the property and the required setbacks in the zoning district, it would be physically impossible to construct a building that meets all applicable requirements. The result would either be a building along the Spencer Avenue property line or a variance to allow the nursery plants to be located outdoors.

**Staff Recommendation:**

**Staff Recommendation:**

The City of Lebanon Planning Staff recommends approval of the Development Standards Variance request to permit relief from the storage in required yard requirements of the Unified Development Ordinance.