

BEFORE THE BOARD OF ZONING APPEALS
LEBANON, INDIANA

IN THE MATTER OF THE APPLICATION)
OF HEADLEY CONDOMINIUM)
HORIZONTAL, INC. FOR SET BACK)
VARIANCES)

ORDER

This matter came on for public hearing before the Board of Zoning Appeals of the City of Lebanon on November 5, 2001, and December 3, 2001, on the application of Headley Condominium Horizontal, Inc. ("Applicant") for variances in the yard set back requirements of the zoning code relating to a twelve-bay covered carport 24' in width by 120' in length (the "Carport") that was constructed during the summer of 2001 at the rear of the property owned and occupied by Applicant at 310 N. West Street, Lebanon, Indiana (the "Real Estate").

By a vote of three opposed to the application (Duff, Hunter, and McVey), none in favor, one absent (Brunes), and one abstaining (Souders), the Board denied the application on December 3, 2001. In support of its decision, the Board now finds and concludes as follows:

1. The Real Estate is located in the MF-1 zoning classification. A carport of this nature is permitted as an accessory use in such district. Applicant did obtain an improvement location permit from city officials before commencing construction.

However, Applicant did not submit a site plan showing the precise location of the Carport on the Real Estate and its distance from the side and rear lot lines.

2. Because the Headley Condominiums building is located on a corner lot, the required minimum front yard setback distance of 25' also applies to the side yard of the property as well. Zoning Code, Section 5.2(B)(5), p. 48.

3. As constructed, the south end of the Carport extends to within 5'8" of the south boundary lot and western edge of the Carport is within 6.83 of the west boundary of the Real Estate.

2. The nature and height of the Carport as well as its close proximity to both West Street and the Busenbark residence located immediately to the west of the Real Estate substantially interfere with the street and yard views both of and from that residence.

3. Granting a variance to allow the Carport to remain in its present location would diminish the marketable value of the Busenbark residence and substantially interfere with the use and enjoyment of that property.

6. Applicant's desire to have a Carport with 12 covered parking spots each 10' in width is understandable, but it does not constitute exceptional or extraordinary circumstances to justify a variance from the setback requirements for the Real Estate.

7. Strict application of the setback requirements of the Code does not create an unusual and unnecessary hardship as applied to this Real Estate.

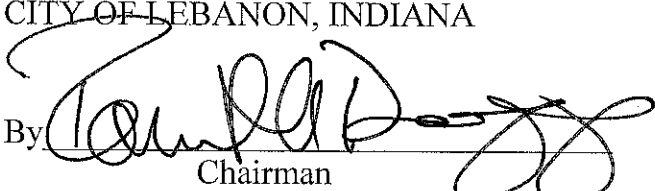
4. Applicant has not demonstrated grounds or justification for the granting of the requested variance.

5. The Carport as constructed in relation to the west boundary line of the Real Estate is not a violation of the rear yard set back requirement. Zoning Code, Section 6.5 (C)(7), p. 93.

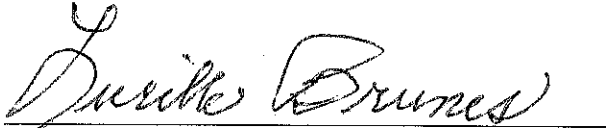
6. The application is denied, and Applicant shall remove the two southernmost bays (approximately 20') of the Carport so as to bring it into compliance with the side yard requirement of the Code. Applicant may, however, continue to park vehicles on those two asphalt parking spaces once that portion of the Carport is removed.

ENTERED this 30 day of DECEMBER, 2001.

BOARD OF ZONING APPEALS
CITY OF LEBANON, INDIANA

By 
Chairman

Attest:


Secretary

92044 12/14/01

**LEBANON BOARD OF ZONING APPEALS
MONDAY, DECEMBER 3, 2001**

**TO: ALL COMMISSION MEMBERS
FROM: RECORDING SECRETARY
SUBJECT: MINUTES TO MEETING**

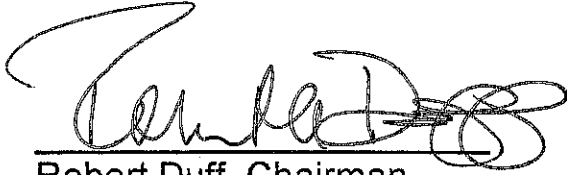
Chairman Robert Duff called the meeting to order. Lucille Bruner was absent. Minutes to the November meeting were approved.

The first item on the agenda was Mark and Kim Miller with an eight-foot Variance to build a two-car garage. Michael Gross is representing the Miller's. This is located at 715 N. Grant Street. This is Zoned SF2. The current garage is a one car attached to the house they plan to convert it into living quarters and put siding around the garage. The new garage will have an entrance off of Fordice Street. Larry Lee the Street Commissioner has already approved the new cut into the street. The garage will be attached to the house due to being in the flood plain that is DNR requirements. The Miller's are not sure how they would like to attach it though. The current drive may stay, but at this time it looks as though they might tear it out and turn it into yard. Lyle Hunter makes a motion to approve the Variance, Jim McVey seconded the motion. Motion passes.

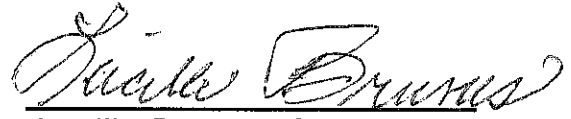
The second item on the agenda is Headley Condominiums with a twenty-foot Variance for an encroachment of a carport. This is located at 310 N. West Street. This is Zoned MF1. Mike Andreoli is representing the Headley Condo owners. The owners would like to amend the twenty-foot side setback variance to a ten-foot variance. As far as the rear setback after reviewing the survey and you can use half of the alley they would need a five-foot variance. The owners would like to remove one bay from the side and see if they could pick up an extra spot from the vacated alley to the north, but if they can't then they say they could live with eleven spots. Kent Frandsen representing the neighbors that are demonstrating the variance Steve Busenbark, Mr. Frandsen spoke that it is good faith to remove one bay, but that still will not resolve the problem that it would still be blocking the Busenbarks view. The Busenbarks are ok to keep the parking spaces they just do not want covered parking spaces in the first two bays. After hearing both sides and hearing the guidelines for granting Variances from Larry Giddings Bob Duff stated that it is difficult to come to a resolution. Jim McVey makes a motion to deny the ten-foot variance and Lyle Hunter seconded the motion. Motion denied.

Meeting adjourned.

Submitted By Recording Secretary
Kristi Culley

A handwritten signature in cursive script, appearing to read "Robert Duff", written over a horizontal line.

Robert Duff, Chairman

A handwritten signature in cursive script, appearing to read "Lucille Bruner", written over a horizontal line.

Lucille Bruner, Secretary

**LEBANON BOARD OF ZONING APPEALS
MONDAY, NOVEMBER 5, 2001**

**TO: ALL COMMISSION MEMBERS
FROM: RECORDING SECRETARY
SUBJECT: MINUTES TO MEETING**

Chairman Robert Duff called the meeting to order. Jim McVey was absent. Minutes from the October meeting were passed.

The first item on the agenda was Nedzad Alic with a Use Variance to operate a wood working shop out of his detached garage located at 813 E. Washington Street. This is Zoned SF2. This will be a part time job after his regular work hour is over. He will be working out of his two-car detached garage. The equipment he has is not very big and does not produce a lot of noise. He asked his neighbors and they didn't have a problem with it. For the people coming to buy his products he has a long driveway enough for five cars. There will not be any outside storage; he only buys enough wood for what he is working on. Lucille Bruner made a motion to approve the Use Variance and Eugene Souders seconded the motion. Motion carries.

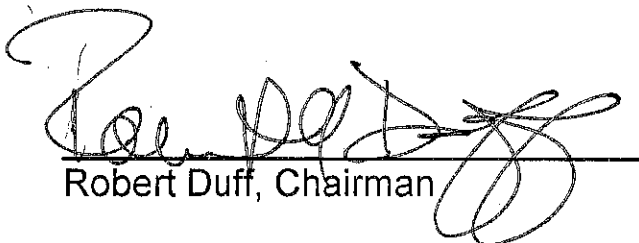
The second item on the agenda is Headley condominiums with a 20-foot Variance for an encroachment of a carport. This is located at 310 N. West Street. This is Zoned MF1. Stan Meece, the Building Inspector stated that to no fault of the condo owners or the contractor it was built in error and the building department should have asked for a site plan and failed to do so. Sharon Morgan spoke for Headley residents; the carport was needed to shield their vehicles from the weather. Headley owners were not trying to be offensive to their neighbors. They like the carport and think it looks nice and want to make it look even better. The carport is 12 bays for 12 condos. One for each condo. The Plan commission asked the neighbor and Headley to get together and try to work out a compromise that would be agreeable to both parties. So far neither party has done that. Sharon Morgan had pictures of the surrounding neighborhood and stated that their building did not come out any further than many of the other homes around this area. The Headley owners had Janet Tyre a realtor come and see if their carport devalued any of the properties in this neighborhood, Mrs. Tyre stated that she did not think it depreciated any of the neighborhood. Kent Frandsen representing Steve Busenbark the neighbor to the west of the Headley Condo's who does not like the carport and says that it blocks the view of his house. Kent Frandsen stated that the setback requirements were not met and need to be complied with. The

carport parking spaces are ten feet and it is typically 9 feet spaces. The building is massive and doesn't fit on this lot properly. It is too tall and goes from one end of the lot to the other. Steve Busenbark stated that he didn't want to be penalized for a mistake the City made. Mr. Isenhower a neighbor of the Headley Condo's sent a letter to Robert Duff stating that he didn't think the carport was a nice addition to the neighborhood and that it did detract from the Busenbarks home. Larry Giddings stated the he would instigate a meeting with himself the Headley owners, Stan Meece, Kent Frandsen to get together and try to work out an arrangement that will work for both parties involved. Lucille Brunnes made a motion to table this item until a meting can be set up and reach a compromise. Lyle Hunter seconded the motion. Motion carried.

The third item on the agenda was Aaron and Donna Ping with a fifteen-foot Variance for an encroachment of an addition built before they bought the house. This is located at 1501 Elizabeth Drive. This is Zoned SF2. The Pings are trying to sell their home and on a mortgage survey it came back with an encroachment beyond the building line, so they are trying to get it taken care so the sell of their house will go along better. Mr. Ping went to his neighbors and none of them had a problem with the addition. Lyle Hunter makes a motion to grant the Variance and Lucille Brunnes seconded the motion. Motion granted.

Meeting Adjourned.

SUBMITTED BY
RECORDING SECRETARY
KRISTI CULLEY


Robert Duff, Chairman


Lucille Brunnes, Secretary