

**CITY OF LEBANON
PLANNING AND ZONING DEPARTMENT**

**BOARD OF ZONING APPEALS
STAFF REPORT
FEBRUARY 6, 2023 PUBLIC HEARING**

Case Number:	Docket #23-9
Applicant:	MBS Properties LLC
Location:	The subject property is located at 618 N Lebanon Street, Lebanon, Indiana 46052.
Acreage and Zoning	The subject property is zoned Multi-Family Residential (MF), is within the Thoroughfare Overlay District, and is comprised of approximately 0.17 acres. The subject lot configuration is 61 feet wide by 122 feet in depth.
Property History:	History of Property: This is the first time the requested Variance of Use has appeared before the City of Lebanon Board of Zoning Appeals. The subject property was previously used for a residence.
Variance Request(s):	Applicant Request: Variance of Use Request Variance Request – Accounting Office Use in the Multi-Family Residential (MF) Zoning District UDO Section 4.9.B The applicant is seeking to use the subject property for a business (accounting office). Office hours are 9 am to 5 pm Monday through Friday. The business includes one full-time employee and two part-time employees, although the part-time employees are generally at the office at different times. The full-time employee is typically out of the office during the day at a client’s office, thus there are no more than two employees at the office at any one time. The proposed use would generate minimal customer traffic to the site, consisting primarily of clients dropping off paperwork and/or stopping to ask questions. This activity is minimal however as most communication is done through email or over the phone. The site will have off-street parking spaces for the accounting office’s employees and customers, including a multi-car garage and driveway. There are no on-street parking spaces adjacent to the property along Lebanon Street. Lebanon Planning Staff Determination: Administrative/professional offices are not a permitted use within the MF zoning district, therefore Lebanon Planning Staff determined that a Variance of Use application was necessary.

Variance Evaluation:	<p>Evaluation of Variance(s)</p> <p>Statutory Authority of BZA for Reviewing Variances.</p> <p>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) 36-7-4-918.4; 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 five (5) statutory criteria:</p> <p style="text-align: center;">Statutory Criteria</p> <p>Criteria-1 <i>The approval will not be injurious to the public health, safety, morals, and general welfare of the community.</i></p> <p>Criteria-2 <i>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>Criteria-3 <i>The need for the variance arises from some condition peculiar to the property involved.</i></p> <p>Criteria-4 <i>The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought.</i></p> <p>Criteria-5 <i>The approval does not interfere substantially with the City of Lebanon Comprehensive Plan.</i></p> <hr/> <p style="text-align: center;">Staff Evaluation of Variance of Use</p> <p>Criteria-1 <i>The approval will not be injurious to the public health, safety, morals, and general welfare of the community.</i></p> <p>Staff Analysis</p> <p>The variance of use to permit an accounting office on the subject property will not be injurious to the public health, safety, morals, and general welfare of the community. The lot is sized appropriately for a small business, has the necessary off-street parking spaces, and will not cause any adverse effects to the adjacent properties.</p> <p>Criteria-2 <i>The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.</i></p> <p>Staff Analysis</p> <p>The requested use variance would not affect the use and value of the area adjacent to the property included in the variance in a substantially adverse manner. The proposed office use of the property is consistent with the mixed-use character of the adjacent area, which consists of other small businesses (e.g. mental health office, church, pizzeria), multi-family uses, and single-family homes. The accounting office</p>
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will maintain the residential character of the home and not be out of place given the current uses in the neighborhood.

Criteria-3 The need for the variance arises from some condition peculiar to the property involved.

Staff Analysis

The property is currently zoned for multi-family uses, thus the existing single-family residential use on the property is considered a legally existing non-conforming use. In addition, the surrounding neighborhood contains a mix of single-family and multi-family uses, as well as several other small businesses. The applicant's request would allow a use on the property similar to other uses along the Lebanon Street corridor.

Criteria-4 The strict application of the terms of the zoning ordinance will constitute an unnecessary hardship if applied to the property for which the variance is sought.

While zoned for multi-family uses, the existing structure is not a multi-family structure. In addition, the site is not sized appropriately to accommodate the uses permitted within the multi-family zoning district and would be rendered unusable if only uses permitted by the district were allowed.

Criteria-5 The approval does not interfere substantially with the City of Lebanon Comprehensive Plan.

The City of Lebanon Comprehensive Plan designates this property for residential uses. However, the Lebanon Street corridor from downtown to Memorial Park has long contained a mix of single-family, multi-family, and commercial uses. The applicant's proposal does not interfere substantially with this land use designation.

Staff Recommendation:

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The City of Lebanon Planning Staff recommends approval of the Variance of Use request to permit an Accounting business use within the Multi-Family Zoning District subject to the following conditions:

1. That the approval of the Variance of Use is limited to those accounting uses proposed by the applicant. Any change in use or increase in the intensity of the use by the current or any subsequent owners will require approval by the City of Lebanon Board of Zoning Appeals.
2. That the property owner maintains the current exterior residential character of the property.
3. That business signage is limited to either one wall sign or post sign no more than four square feet in area and four feet in height. In addition, the signage shall not be lighted in any manner.