

**CITY OF LEBANON  
PLANNING AND ZONING DEPARTMENT**

**BOARD OF ZONING APPEALS  
STAFF REPORT  
JUNE 5, 2023 PUBLIC HEARING**

<b>Case Number:</b>	<b>Docket #23-40</b>
<b>Applicant:</b>	<b>Gary Ladd for S &amp; C Property Group, LLC</b>
<b>Location:</b>	The subject property is located at 235 W Cox Avenue, Lebanon, Indiana 46052.
<b>Acreage and Zoning</b>	The subject property is zoned Planned Business Industrial (PBI) and comprised of 0.96 acres.
<b>Property History:</b>	<p><b>December 5, 2022 Board of Zoning Appeals Meeting Development Standards Variance Variance Request – Rear Building Setback UDO Section 4.15.D</b></p> <p>Variance approved to permit relief from the rear building setback requirement to allow the existing building to maintain its 20-foot setback where 50 feet is required.</p> <p>This is the first time the requested Development Standard Variances have appeared before the City of Lebanon Board of Zoning Appeals. The subject property includes an approximately 4500 square foot structure and associated parking that formerly housed a bar/restaurant.</p> <p><b>Lebanon Planning Staff Determination:</b> The applicant, S &amp; C Property Group, LLC, presented the intent to construct an expansion to the existing structure and reconfigure and reconstruct appropriate parking to house an electrical contractor business. After reviewing the proposal with the applicant, it was determined that a series of variance requests would be needed due primarily to site limitations.</p>
<b>Variance Request(s):</b>	<p><b>Applicant Request: Development Standard Variance Request</b></p> <p><b>Variance Request #1 – Dumpster Screening UDO Section 7.8.O.5</b></p> <p>The UDO requires all dumpster enclosures to be situated such that the container is not visible at an angle greater than 45 degrees from adjacent public streets. The applicant is requesting relief from this requirement to allow a dumpster location that faces Cox Avenue.</p> <p><b>Variance Request #2 – Pedestrian Facilities UDO Section 6.1.L.5</b></p> <p>The UDO requires a sidewalk along any property frontage adjacent to a public or private street. The applicant is requesting relief from this requirement in order to eliminate the sidewalk along Cox Avenue.</p>

<b>Variance Evaluation:</b>	<b>Variance Request #3 – Loading Berths</b> <b>UDO Section 6.1.L.9</b> The UDO requires that all loading berths and overhead doors shall face to the rear of all buildings or shall be screened from view with an opaque wall. The applicant is requesting relief from this requirement to allow an overhead door to face Cox Avenue.
	<b>Variance Request #4 – Front Setback</b> <b>UDO Section 4.15.D</b> The UDO requires a front building setback of 50 feet. The applicant is proposing to maintain the existing building footprint, which involves a front setback of 34 feet, and is requesting relief from this UDO requirement.
	<b>Variance Request #5 – Minimum Building Height</b> <b>UDO Section 6.1.L.2.c</b> The UDO requires that all buildings in the overlay district have a minimum building height of 20 feet. The applicant is requesting relief from this requirement to allow a building height of 19.5 feet.
	<b>Variance Request #6 – Lot Plantings</b> <b>UDO Section 7.8.K.2.c</b> The UDO requires one tree to be planted for every 1000 square feet of yard area in addition to required parking lot and building base landscaping. The applicant is requesting relief from this standard.
	<b>Variance Request #7 – Interstate Corridor Buffer</b> <b>UDO Section 6.2.E</b> The Interstate Corridor Overlay District requires a minimum 30-foot landscape buffer on the lot frontage adjacent to the interstate. This buffer is in addition to other required landscaping and setback yards. Due to site limitations, the applicant is requesting relief from this requirement.
	<b>Variance Request #8 – Flagpole Height</b> <b>UDO Section 7.7.C.8</b> The UDO standards for exempt signs indicates that flags, such as U.S. flags, shall not be flown from a pole the top of which is more than 30 feet in height. The applicant is requesting relief from this requirement to allow a flagpole 60 feet in height.
	<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:

***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.***

Variance #1:

**Variance Request #1 – Dumpster Screening  
UDO Section 7.8.O.5**

The UDO requires all dumpster enclosures to be situated such that the container is not visible at an angle greater than 45 degrees from adjacent public streets. The applicant is requesting relief from this requirement to allow a dumpster location that faces Cox Avenue.

**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 relief from the dumpster screening requirement poses no imminent threat to the public health, safety, morals, or general welfare of the community. The dumpster is properly located and will have no direct impact to 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 substantially adverse manner.***

***Staff Analysis***

The requested variance for relief from the dumpster screening requirement will not affect the use and value of the area adjacent to the property in an adverse manner. The dumpster is located south of the building and toward the back of the property and will be partially screened by trees located east of the dumpster within the parking lot interior. In addition, the privacy fence along the south property line will also provide some screening from views along Cox Avenue.

***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 site size and configuration, there are limited

<p><b>Staff Recommendation:</b></p>	<p>areas to located the dumpster in such a manner that the dumpster opening is not visible from Cox Avenue.</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 dumpster screening requirements of the Unified Development Ordinance.</p>
<p><b>Variance #2:</b></p>	<p><b>Variance Request #2 – Pedestrian Facilities</b> <b>UDO Section 6.1.L.5</b> The UDO requires a sidewalk along any property frontage adjacent to a public or private street. The applicant is requesting relief from this requirement in order to eliminate the sidewalk along Cox Avenue.</p> <p><b>Staff Evaluation of Development Standard Variances</b> <b>Criteria-1 The approval will not be injurious to the public health, safety, morals, and general welfare of the community.</b></p> <p><b>Staff Analysis</b> The relief from the pedestrian facilities requirement poses no imminent threat to the public health, safety, morals, or general welfare of the community. While sidewalks are safer for pedestrians, the subject property is in a location that sees very limited pedestrian activity and there are no other sidewalks in the vicinity.</p> <p><b>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.</b></p> <p><b>Staff Analysis</b> The requested variance for relief from the pedestrian facilities requirement will not affect the use and value of the area adjacent to the property in an adverse manner. Because there are no other sidewalks in the area, there will be no impact to adjacent properties by allowing relief from this requirement.</p> <p><b>Criteria -3 The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property.</b></p> <p><b>Staff Analysis</b> The strict application of the terms of the UDO will result in practical difficulties in the use of the property. The installation of the sidewalk will have no material benefit to the property or to the surrounding area given there are no other sidewalks to provide connectivity.</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 pedestrian connectivity requirement of the Unified Development Ordinance.</p>

<p><b>Variance #3:</b></p>	<p><b>Variance Request #3 – Loading Berths</b>  <b>UDO Section 6.1.L.9</b>          The UDO requires that all loading berths and overhead doors shall face to the rear of all buildings or shall be screened from view with an opaque wall. The applicant is requesting relief from this requirement to allow an overhead door to face Cox Avenue.</p> <p style="text-align: center;"><b>Staff Evaluation of Development Standard Variances</b></p> <p><b>Criteria-1 The approval will not be injurious to the public health, safety, morals, and general welfare of the community.</b></p> <p><b>Staff Analysis</b>          The relief from the loading berth requirement poses no imminent threat to the public health, safety, morals, or general welfare of the community.</p> <p><b>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.</b></p> <p><b>Staff Analysis</b>          The requested variance for relief from the loading berth requirement will not affect the use and value of the area adjacent to the property in an adverse manner. The proposed landscaping around the perimeter of the north parking lot will help to screen the view of the overhead door and minimize any potential impact on surrounding properties.</p> <p><b>Criteria -3 The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property.</b></p> <p><b>Staff Analysis</b>          The strict application of the terms of the UDO will result in practical difficulties in the use of the property. Because of the lot size/configuration and the existing location of the building in relation to the rear property line, it is not possible to put the overhead door on the back of the building and maintain proper vehicular access to the door. In addition, there is not space and it would not be practical to attempt to screen the proposal overhead door location with an opaque wall along Cox Avenue.</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 loading berth requirement of the Unified Development Ordinance.</p>
<p><b>Variance #4:</b></p>	<p><b>Variance Request #5 – Front Setback</b>  <b>UDO Section 4.15.D</b>          The UDO requires a front building setback of 50 feet. The applicant is proposing to maintain the existing building footprint, which involves a front setback of 34 feet, and is requesting relief from this UDO requirement.</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 front setback requirement poses no imminent threat to the public health, safety, morals, or general welfare of the community. The existing building still maintains a significant setback of 34 feet from Cox Avenue.</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 front setback requirement will not affect the use and value of the area adjacent to the property in an adverse manner. The building will maintain the same setback as it does currently and the significant rehab of the building should positively impact the surrounding area.</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. Given the proposed expansion of the current building, the UDO would require the entire site to be improved to current standards. This would require the existing building, with a 34-foot front setback, to be moved in such a manner that it met the 50-foot setback or removed entirely to start over with a new structure.</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 front setback requirement of the Unified Development Ordinance.</p>
<p><b>Variance #5:</b></p>	<p><b>Variance Request #5 – Minimum Building Height</b> <b>UDO Section 6.1.L.2.c</b></p> <p>The UDO requires that all buildings in the overlay district have a minimum building height of 20 feet. The applicant is requesting relief from this requirement to allow a building height of 19.5 feet.</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 minimum building height requirement poses no imminent threat to the public health, safety, morals, or general welfare of the community.</p>

	<p><b>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.</b></p> <p><b>Staff Analysis</b> The requested variance for relief from the minimum building height requirement will not affect the use and value of the area adjacent to the property in an adverse manner. The proposed improvements to the existing structure and building expansion represent a significant improvement over existing conditions and should have a positive impact on the surrounding properties.</p> <p><b>Criteria -3 The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property.</b></p> <p><b>Staff Analysis</b> The strict application of the terms of the UDO will result in practical difficulties in the use of the property. The applicant did a complete redesign of the existing building in order to better meet the materials requirements of the overlay. Because of the scale of the building, the structure would begin to look out of scale by artificially adding any additional building height.</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 minimum building height requirement of the Unified Development Ordinance.</p>
<p><b>Variance #6:</b></p>	<p><b>Variance Request #6 – Lot Plantings</b> <b>UDO Section 7.8.K.2.c</b> The UDO requires one tree to be planted for every 1000 square feet of yard area in addition to required parking lot and building base landscaping. The applicant is requesting relief from this standard.</p> <p><b>Staff Evaluation of Development Standard Variances</b></p> <p><b>Criteria-1 The approval will not be injurious to the public health, safety, morals, and general welfare of the community.</b></p> <p><b>Staff Analysis</b> The relief from the lot plantings requirement poses no imminent threat to the public health, safety, morals, or general welfare of the community.</p> <p><b>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.</b></p> <p><b>Staff Analysis</b> The requested variance for relief from the lot plantings requirement will not affect the use and value of the area adjacent to the property in an adverse manner. The applicant has proposed an aesthetically pleasing landscape plan that represents a</p>

<p><b>Staff Recommendation:</b></p>	<p>significant improvement over the properties current condition and should positively impact surrounding properties.</p> <p><b>Criteria -3 The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property.</b></p> <p><b>Staff Analysis</b> The strict application of the terms of the UDO will result in practical difficulties in the use of the property. Because of the restricted lot size and configuration and the need for dry detention, there is extremely limited space to add any additional landscaping beyond that which is already proposed.</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 lot plantings requirement of the Unified Development Ordinance.</p>
<p><b>Variance #7:</b></p>	<p><b>Variance Request #7 – Interstate Corridor Buffer UDO Section 6.2.E</b> The Interstate Corridor Overlay District requires a minimum 30-foot landscape buffer on the lot frontage adjacent to the interstate. This buffer is in addition to other required landscaping and setback yards. Due to site limitations, the applicant is requesting relief from this requirement.</p> <p><b>Staff Evaluation of Development Standard Variances</b></p> <p><b>Criteria-1 The approval will not be injurious to the public health, safety, morals, and general welfare of the community.</b></p> <p><b>Staff Analysis</b> The relief from the interstate corridor buffer requirement poses no imminent threat to the public health, safety, morals, or general welfare of the community.</p> <p><b>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.</b></p> <p><b>Staff Analysis</b> The requested variance for relief from the interstate corridor buffer requirement will not affect the use and value of the area adjacent to the property in an adverse manner. The proposed building and site improvements represent a significant improvement over the current conditions and should have a positive impact on surrounding properties. In addition, the proposed landscape plantings along the Cox Avenue frontage may not meet the letter of the buffer standards, but will provide an aesthetically pleasing frontage.</p>



<p><b>Staff Recommendation:</b></p> <p><b>Variance #8:</b></p>	<p><b>Criteria -3 The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property.</b></p> <p><b>Staff Analysis</b> The strict application of the terms of the UDO will result in practical difficulties in the use of the property. In order to meet the interstate corridor buffer and building setback requirements, the building’s overall setback would be 80 feet, essentially rendering the property useless given the restricted size and configuration.</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 interstate corridor buffer requirement of the Unified Development Ordinance.</p> <p><b>Variance Request #3 – Flagpole Height</b> <b>UDO Section 7.7.C.8</b> The UDO standards for exempt signs indicates that flags, such as U.S. flags, shall not be flown from a pole the top of which is more than 30 feet in height. The applicant is requesting relief from this requirement to allow a flagpole 60 feet in height.</p> <p><b>Staff Evaluation of Development Standard Variances</b></p> <p><b>Criteria-1 The approval will not be injurious to the public health, safety, morals, and general welfare of the community.</b></p> <p><b>Staff Analysis</b> The relief from the flagpole height requirement poses no imminent threat to the public health, safety, morals, or general welfare of the community.</p> <p><b>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.</b></p> <p><b>Staff Analysis</b> The requested variance for relief from the flagpole height requirement will not affect the use and value of the area adjacent to the property in an adverse manner. The flagpole is not in a location that would have a direct impact on neighboring properties and is of a scale appropriate for its location along the interstate.</p> <p><b>Criteria -3 The strict application of the terms of the Unified Development Ordinance will result in practical difficulties in the use of the property.</b></p> <p><b>Staff Analysis</b> The strict application of the terms of the UDO will result in practical difficulties in the use of the property. While there are many locations within the city where this height may be out of scale, because the subject property is located along the interstate where passersby are further away and moving at higher speeds, the scale of the proposed flagpole is appropriate.</p>
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**Staff Recommendation:**

**Staff Recommendation:**

The City of Lebanon Planning Staff recommends approval of the Development Standards Variance request to permit relief from the flagpole height requirement of the Unified Development Ordinance.