



AGENDA ITEM SUMMARY FORM

MEETING DATE: December 21, 2022

PREPARED BY: Otis T. Spriggs, AICP, Development Services Director

AGENDA CONTENT: Conduct a public hearing, discussion, and possible action on a request for a variance to Sec. 28-101.1. - Parking lot paving requirements to allow for the continued use of an existed compacted gravel lot, for the proposed Shaka Shack, Container Park use. The subject property is located at 509 W. Mulberry St./Hwy. 35, on the S.E. corner of Columbia Street intersection.

AGENDA ITEM SECTION: Public Hearing and Action

BUDGETED AMOUNT: None **FUNDS REQUESTED:** None

FUND: None

EXECUTIVE SUMMARY:

A building permit application has been submitted to replace the existing residential structure located on property more commonly known as 209 W. Kiber Street. The subject property is in the SF-6.3 district, is described as the west 52 feet of Lot 1, Block 108 City of Angleton, and is located on the south side of W. Kiber Street approximately 80 feet west of Hancock Street. Staff has identified three variances necessary to process the building permit application and issue a building permit. These variances are to the required front yard, required rear yard and the maximum impervious surface requirements of the SF-6.3 district. The existing residence on the property was constructed in 1955.

Sec. 28-101.1. - Parking lot paving requirements.

(a)Applicability. The City of Angleton parking lot paving requirements shall apply to all off-street parking, maneuvering, loading and storage areas located within the city limits of the City of Angleton, or its extraterritorial jurisdiction. (b)Paving materials. Facilities subject to these requirements shall submit paving designs to the City of Angleton that have been prepared by an engineer registered to practice engineering in the State of Texas. The design shall utilize either a reinforced concrete or asphalt wearing surface, supported by the appropriate base material and/or compacted sub-grade. The thickness of the pavement components shall be designed based upon the intended use, anticipated loading, intended life of the pavement, and the engineering properties of the soil that are developed from geotechnical sampling and testing.(1)Pavement in front of refuse container shall be of concrete, designed to accommodate the load of a full vehicle

while accepting refuse from a container. The concrete pavement shall extend a minimum of ten feet in front of the dumpster enclosure and shall be as wide as the enclosure.(2)All concrete paving, including curbs and gutters, shall be designed with steel reinforcing.

The idea is a park like setting comprised of the following:

- Huge commercial playset including swings, slides, rock climb, etc
- Over 20+ picnic tables (outdoor seating only)
- Container converted into concession stand
- Latrine container (already hooked up & approved)
- Covered pavilion & gazebo available for reservation (birthdays, benefits, etc)
- Ample parking approximately 45+ spots
- Multiple outdoor games, movie nights, live music
- Occasional food truck(s)

The business owner has improved this property to a environment for small families to come enjoy a park like setting. The appellant states that “existing neighbors love the improvements and cannot wait for us to open. Much like my multiple ventures over the past 15 years in Angleton, it will be a unique and enjoyable draw to our city”.

Pursuant to Chapter 28, Section 28-23(h)(3) of the Code of Ordinances of the City of Angleton (Code), notice was publishing in the “Facts,” and mailed to all property owners within two-hundred feet of the subject property on December 6, 2022.

Pursuant to Section 28-23(h)(4): The board of adjustment shall not grant a variance unless it finds, based upon compelling evidence provided by the applicant, that each of the conditions of subsection (f) have been satisfied...”

Pursuant to Section 28-23(f)(2): No variance shall be granted without first having given public notice and having held a public hearing on the variance request in accordance with subsection (h) of this section and unless the board of adjustment finds:

- a. That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of his/her land;**

The current commercial standards for commercial parking lot does not have a provision for chat or kalachi which is prohibited. Optional seasonal parking for food courts is being considered to allow for more flexibility and solutions that will utilize pavers that will allow grass growth and hybrid solutions that will promote drainage without the need for a detention pond.

- b. That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant.**

Due to the uniqueness of the use, a variance is necessary for the preservation and enjoyment of a substantial property right, with the financial burden for developing a full commercial parking lot. The lot had a pre-existing compacted gravel previously.

- c. That the granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other property within the area;**

The granting of the variance should not be detrimental to the public health, safety or welfare of surrounding properties which are commercial uses. A number of uses surrounding uses will be

closed during the operation of the family park; Cross access parking easements should be considered by the owners to insure that overflow parking is accounted for.

- d. That the granting of the variance will not have the effect of preventing the orderly use of the other land within the area in accordance with the provisions of this chapter; and**
Again, it is hard to imagine how the proposed family park would prevent the orderly use of other land within the area.

- e. That a finding of undue hardship exists.**

An undue hardship exists pursuant to Section 28-23(f)(3).

Pursuant to Section 28-23(f)(3): In order to grant a variance, the board of adjustment must make written findings that an undue hardship exists using the following criteria:

- a. That literal enforcement of the controls will create an unnecessary hardship in the development of the affected property;**

While the carport could be located to the east side (left side if facing the house) of the house, that would entail expanding the driveway in a fashion where most of that side of the house would be paved. Paving reduces the green space on the lot and would require the property owners to find a workable driveway design to provide access which would be an undue hardship given the size of the lot, as well as stormwater detention.

- b. That the situation causing the hardship or difficulty is neither financial in nature, self-imposed nor generally affecting all or most properties in same zoning district;**

Situation causing the hardship is that the lot previously utilized compacted gravel or chat. The hardship is not financial, self-imposed nor generally affecting all or most properties in the same zoning district.

- c. That the relief sought will not injure the permitted use of adjacent conforming property; and**

The relief sought will not injure the permitted use of adjacent conforming property.

- d. That the granting of a variance will be in harmony with the spirit and purpose of these regulations.**

Granting of a variance will be in harmony with the spirit and purpose of these regulations.

Pursuant to Section 28-23(f)(4); A variance shall not be granted to relieve a self-created or personal hardship, nor shall it be based solely upon economic gain or loss, nor shall it permit any person the privilege in developing a parcel of land not permitted by this chapter to other parcels of land in the particular zoning district. No variance may be granted which results in undue hardship upon another parcel of land.

SITE PHOTOGRAPHS



View of site showing existing drives and parking areas



View of site showing existing drives and parking areas



View of site showing existing structures and seating areas



View of site showing existing structures and seating areas



View of site looking south from across Hwy. 35/W. Mulberry St.

Site Analysis

Staff recommends the following conditions of approval:

1. Business owner shall provide parking blocks and replacement of compacted gravel, chat or stone to establish parking spot locations and to provide for organized circulation
2. Parking within the right of way of Hwy. 35/W. Mulberry St. shall be prohibited, due to site visibility and clearance.

Staff Recommendation: Staff recommends approval of the variance to allow for compacted gravel, chat or stone, subject to a final site plan be provided to development services illustrating the traffic flow and layout of the potential spaces.

Suggested Motion: I move we find that the criteria of Section 28-23(f) of the Code of Ordinances of the City of Angleton are met and grant a variance to Sec. 28-101.1. - Parking lot paving requirements to allow for the continued use of an existed compacted gravel lot, for the proposed Shaka Shack, Container Park use with the recommended conditions.