



STAFF REPORT

MEETING DATE: October 26, 2022

TITLE:

Public Hearing and consider action to deny variances from the Bastrop Building Block (B³) Code, Chapter 8 – Sign, Signs, Section 8.1009 (3) Large Freestanding Sign types and Article 8.3 (L) Pole Signs to allow digital price numbers on an existing sign, on Nancy Blakey Survey, Abstract 98, Acres 0.380, located at 521 W SH 71, within the City Limits of the City of Bastrop, Texas.

STAFF REPRESENTATIVE:

Jennifer C. Bills, AICP, LEED AP, Director of Planning & Development

ITEM DETAILS:

Site Address:	521 State Highway 71 (Attachment 1)
Total Acreage:	0.38 acres
Legal Description:	Nancy Blakey Survey, Abstract 98
Property Owner:	Startex First Equipment LP
Agent Contact:	Lee Simmons/Husch Blackwell
Existing Use:	Gas Station/Convenience Store
Existing Place Type Zoning:	P-5 Core
Character District:	District 71
Future Land Use:	General Commercial

BACKGROUND/HISTORY:

The applicant is requesting a variance to allow a sign type that is not permitted under the adopted Chapter 8 – Signs.

The Bastrop Building Block (B³) Code was adopted on November 12, 2019. Under the prior code, digital signage was allowed as a sign type with specific standards. Nine months after the adoption, the property owner applied for a new pylon sign with static price signage that conforms to the adopted Code. The property owner is now requesting a digital sign. The property owners failed to file for a permit to obtain a digital sign before the code was revised to disallow digital signs, which is not an eligible criterion for requesting a variance. The applicant has stated that competitors such as HEB and Buc-ee’s have digital signs that put them at a disadvantage. While HEB does have legal non-conforming digital signs, Buc-ee’s does not have any digital signs or any signs advertising gas prices. The other primary reason for the variance stated by the applicant is that an off-site tree obscures the sign but changing the sign type does not remedy that situation. Similarly, the Shell station east of this property at 513 W SH 71, is also obscured by a tree, which has not provided better visibility (Attachment 5).

The sign in which the variance is being applied for is the same pylon sign that the property owners submitted and received a permit for a sign that met the code in 2020 (Attachment 4).

Per Section 2.4.003 Zoning Board of Adjustments (ZBA) (d) Limitations of Authority of the ZBA:
(1) The ZBA cannot grant a variance authorizing a use or a building type other than those permitted in the Place Type Zoning district, unless it is a nonconforming use or structure. In this case, the sign is not a nonconforming structure, and a digital sign is not a sign type allowed in the P5 Core Place Type Zoning District.

PUBLIC NOTIFICATION:

A newspaper notice was placed on October 14, 2022. Notifications were mailed to 5 adjacent property owners on October 3, 2022. At the time of this report, two comments have opposed to the variance have been received (Attachment 7).

POLICY EXPLANATION:

The Bastrop Building Block (B³) Code was adopted on November 12, 2019 and include Chapter 8 Signs. The applicant is asking for a variance to allow a sign face type which is not allowed in the two following standards:

Section 8.1.009 Signs Requiring a Permit (b) Freestanding Signs

(3) Large Freestanding Sign Types:

- A. Monument Sign
- B. Pylon/Pole Sign

(4) General Requirements:

- A. Size: Cannot have a ratio of less than 4:1 sign width to narrowest width of support structure. Must follow standards in Article 8.3.
- B. Number. One Sign per street frontage of a lot.
- C. Illumination: Large Freestanding Signs may only be externally illuminated unless approved by Warrant or located within the SH 71/SH 95/Loop 150 Corridors.
 - i. External lighting shall be directly directed down toward the Sign and shielded so that it does not shine directly into a public right-of- way and does not interfere with the safe vision of motorists or people passing by. All Standards must meet the City's Code.
 - ii. Internal illumination shall not operate at brightness levels of more than 0.2 foot-candles above ambient light conditions at the property line, as measured using a foot-candle meter. The total lumen output of all signs cannot exceed 10% of the total lumen allowance in Section 6.6 – Outdoor Lighting.

Article 8.3 L) Pylon/Pole Sign

- d. Quantity: 1 max per Frontage
- e. Height: 35 ft max in P5 on SH71
- f. Max Height to width ratio: 4:1

Description: A Sign permanently affixed to the ground at its base by a single- or double-poles, that are enclosed by a base of natural stone, stucco, brick, or wood and not mounted to a part of a Building. Only allowed in State Highway 71 & SH 95

i. How to Measure:

(1) Maximum total Height is measured from the finished grade at the center of the Sign. If the finished grade at the center of the Sign is higher than the finished grade of the closest paved surface, then the Height shall be measured from the finished grade of the closest paved surface.

(2) The pylon/pole base shall be a maximum of 2 feet in Height and shall be included in the calculation of total Height.

ii. The max Height allowed along SH 71 is 35 feet.

iii. The max Height allowed along Loop 150 and SH 95 is 20 feet.

iv. Signs along SH 71, SH 95 and Loop 150 can be internally illuminated.

v. Only allowed in a Sign Corridor and not allowed if Band Sign exceeds 4 feet in height.

vi. Cannot be located within a Sight Triangle.

Section 8.2.003 Variances

(d) The ZBA may decide, subject to appropriate conditions, and only after a finding based on the evidence presented that strict compliance with the requirements of this Code will result in substantial undue hardship, sufficient mitigation, or inequity to the applicant without sufficient corresponding benefit to the City and its citizens in accomplishing the objectives of this Chapter.

The Sign Administrator and ZBA shall consider:

(1) Special or unique hardship because of the size or shape of the property on which the Sign is to be located, or the visibility of the property from public roads. *Other sites along SH 71 have trees that obscure signage at points along the frontage road.*

(2) Hardship claim based on the exceptional topographic conditions or physical features uniquely affecting the property on which a Sign is to be located. *The applicant is claiming a hardship from an offsite tree that is obscuring the view of the sign for west bound traffic on the frontage road. Changing the sign face type would not change this condition.*

(3) Proposed Sign location, configuration, design, materials and colors are harmonious. *The sign code does not allow digital signage of any kind and the Outdoor Lighting code requires shielding of all outdoor lighting so that there is no exposed light elements. Digital signs increase unshielded lighting.*

(4) The Sign and its supporting structure are in architectural harmony with the surrounding Structures. *The existing sign is conforming and in architectural harmony with the existing building.*

- (5) Mitigation measures related to the Sign in question or other Signs on the same Premises.

The applicant has proposed removing the existing digital sign on the west side of the canopy, but the installation of digital signs on both sides of the pole sign would double the amount of not allowed digital signs.

- (6) Demonstrated and documented correlation between the Variance and protecting the public health and safety.

Granting a variance does not provide any additional protection to public health or safety.

- (7) Whether the Sign could have been included in a Master Sign Plan. Master Sign plans are highly encouraged. The City will be more inclined to favorably consider a Variance request when the Variance is part of a Master Sign Plan. There will be a presumption against granting variances piecemeal, ad hoc, on a case-by-case basis when the Sign for which a Variance is sought could have been included in a Master Sign Plan and considered in the course of a comprehensive review of the entire Project's signage.

This is a single business site. A Master Sign Plan would not be appropriate in this instance.

- (8) The Sign Administrator may authorize the remodeling, renovation, or alteration of a Sign when some nonconforming aspect of the Sign is thereby reduced.

The existing pole sign is currently conforming and was permitted under the currently adopted sign code.

Per Texas Local Government Section 211.009 the board may consider the following grounds as a hardship:

- (1) the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01, Tax Code;

The applicant has not provided any data that meets this criterion. The applicant has provided data since 2016 that show varying sales. In this time frame, additional gas stations (Buc-ee's and Quiktrip) have been constructed (neither of which have digital signs).

- (2) compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur;

Not applicable.

- (3) compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;

Not applicable.

- (4) compliance would result in the unreasonable encroachment on an adjacent property or easement; or

Not applicable.

- (5) the municipality considers the structure to be a nonconforming structure.

The current pole sign is conforming structure that was permitted after the B³ Code adoption.

A blank findings form has been included if the Board would like to make their own findings for approval (Attachment 8).

RECOMMENDATION:

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ATTACHMENTS:

- Attachment 1: Location Map
- Attachment 2: Letter from Applicant
- Attachment 3: Applicant Submittal
- Attachment 4: Permitted Pylon Sign 2020
- Attachment 5: 513 W SH 71 – Shell Station Sign
- Attachment 6: Notice to Property Owners
- Attachment 7: Bastrop Building Block (B³) Code Band Sign Requirement
- Attachment 8: Blank Findings for Sec 8.2.003 Variances

