



City of San Antonio

Agenda Memorandum

File Number:19-4257

Agenda Item Number: 1.

Agenda Date: 5/20/2019

In Control: Board of Adjustment

Case Number: BOA-19-10300049
Applicant: James McKnight, Brown & Ortiz
Owner: Whataburger Real Estate, LP
Council District: 2
Location: 5075 Rigsby Avenue
Legal: The South 204.3 feet of Lot 37, Block 14, NCB 13183
Description:
Zoning: "C-2 MLOD-3 MRL-1" Commercial Martindale Military
Lighting Overlay Military Lighting Region 1 District
Case Manager: Debora Gonzalez, Senior Planner

Request

A request for a 28 foot variance from the maximum 60 foot tall sign height, as described in Section 28-241, to allow for a single-tenant sign to be 88 feet tall.

Executive Summary

The subject property is located within 500 feet West of Loop 410. The sign is currently 88' tall, which makes the sign non-conforming under Chapter 28. The applicant states that the existing sign pole is showing signs of rust and while most of the pole can be cleaned, primed and re-painted, the upper third portion must be replaced with new steel. While the cabinet sign will remain and be re-used, in order to replace the portion of the pole, the cabinet will have to come down. The applicant is asking to do their maintenance and repairs and leave the sign at its current height, 88' above ground level. The area is mostly commercialized along Rigsby that includes restaurants, auto repair shops, hotel and some residential uses.

Code Enforcement History

On 8.28.2008 the owner obtained a sign permit to wall mount channel letters and logos.

On 2.01.2013 the owner obtained a sign permit to reface the existing free standing pylon sign cabinet top and bottom logo, and replace the existing wall mount oval sign cabinets.

On 4.17.2017 the owner applied and obtained a sign permit to remove sign and replaces top 2 sections of pipes

but was cancelled by the City on 6.27.2017.

Permit History

The property owner is seeking variance to allow for sign permit to be issued.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"C-2 MLOD-3 MRL-1" Commercial Martindale Army Airfield Military Lighting Overlay Military Lighting Region 1 District	Fast Food

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"C-2 MLOD-3 MRL-1" Commercial Martindale Army Airfield Military Lighting Overlay Military Lighting Region 1 District	Vacant
South	"C-2 CD MLOD-3 MRL-1" Commercial Martindale Army Airfield Military Lighting Overlay Military Lighting Region 1 District	Auto Repair
East	"I-1 MLOD-3 MRL-1" General Industrial Martindale Army Airfield Military Lighting Overlay Military Lighting Region 1 District	Restaurants
West	"R-5 MLOD-3 MRL-1" Residential Single- Family Martindale Army Airfield Military Lighting Overlay Military Lighting Region 1 District	Church

Comprehensive Plan Consistency/Neighborhood Association

The property is within the boundaries of the Eastern Triangle Community Plan and it is currently designated as "Community Commercial" in the future land use component of the plan. The subject property is located within the boundaries of a Dellcrest Area Neighborhood Association. As such, they were notified and asked to comment.

Street Classification

Rigsby Avenue is classified as an Arterial Type A.

Criteria for Review

Pursuant to Section 28-247 of *Chapter 28: Signs and Billboards* of the City Code, in order for a variance to be granted, the applicant must demonstrate:

1. *The variance is necessary because strict enforcement of this article prohibits any reasonable opportunity to provide adequate signs on the site, considering the unique features of a site such as its dimensions, landscaping, or topography; or*
2. *A denial of the variance would probably cause a cessation of legitimate, longstanding active commercial use of the property; and*

The applicant is seeking to do maintenance and repairs and wants to keep the single-tenant sign to be 88 feet tall. The applicant states that lowering the sign to current standards will cause a lack of visibility for the Whataburger sign, which has been there since 2002. Although staff understands the need for a tall sign, the location does not have drastic topographical challenges adjacent to the Loop 410 that limit visibility. Strict enforcement of the ordinance would allow a sign of 60' in height.

3. *After seeking one or more of the findings set forth in subparagraphs (1) and (2), the Board finds that:*
 - A. *Granting the variance does not provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.*

The area in which the Whataburger is located caters to interstate travel. Many commercial properties within the area already have compliant signs with a height at 50'; however, because there are no conditions present that warrant nearly doubling the sign height to 88', staff cannot support this request.

- B. *Granting the variance will not have a substantially adverse impact on neighboring properties.*

The ordinance intends to protect the public from over-crowding of signage, while providing businesses the opportunity to advertise. The proposed property is not located directly at the interstate. Allowing an 88' tall sign will have a substantially adverse impact on neighboring properties due to an extremely tall sign.

- C. *Granting the variance will not substantially conflict with the stated purposes of this article.*

Granting the variance substantially conflicts with the state purpose of the Chapter. A sign height of 60' is allowed by code; however, no challenging topographical disparities are present that warrant nearly doubling the height of the proposed sign to 88'.

Alternative to Applicant's Request

The applicant must adhere to the height requirements set forth by Section 28-241.

Staff Recommendation

Staff recommends **Denial** of variance in **BOA-19-10300049**, based on the following findings of fact:

1. The requested 88' tall sign pole is not necessary due to the relatively flat topographical landscape along Loop 410; and;
2. The request does not observe the spirit of the ordinance, and;
3. No conditions are present that warrant an 88' sign; a sign height to be 60' still allows adequate space to advertise and still observes the spirit of the ordinance.