



# City of San Antonio

## Agenda Memorandum

**File Number:**19-4461

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**Agenda Item Number:** 45.

**Agenda Date:** 6/20/2019

**In Control:** City Council A Session

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**DEPARTMENT:** Development Services

**DEPARTMENT HEAD:** Michael Shannon

**COUNCIL DISTRICTS IMPACTED:** 2

### **SUBJECT:**

Appeal Board of Adjustment Case BOA 19-10300050

### **SUMMARY:**

An appeal of the decision of the Board of Adjustment to deny a 35 foot variance from the maximum 60 foot tall sign height restriction to allow for a single-tenant sign to be 95 feet tall, located at 4635 Rittiman Road. On May 20, 2019 the Board of Adjustment denied the request in a vote of 8 opposed, 3 in favor. Pursuant to City Code section 28-5 the applicant is appealing the decision of the Board of Adjustment to the City Council.

### **BACKGROUND INFORMATION:**

The subject property is located east of Loop 410 within 500 feet of the expressway. The City's Sign Ordinance allows lots or any portion of lots located within 500 feet of an expressway to have expressway sign standards. The applicant states that the existing base of the pole sign must be replaced with new concrete and 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 which is 95 feet above ground level.

The requested 95-foot tall sign is thirty six percent (36%), therefore, granting the applicant's request conflicts with the purposes of City Code Chapter 28 - Signs. Moreover, the 95-foot tall single-tenant sign eliminates all distinction between signs allowed within the city since the citywide expressway standard is 50 feet for single tenant signs.

The subject property is not influenced by oppressive conditions that are unique to the land or that prevent the business from being properly advertised. Granting the variance will provide the applicant with special privileges not enjoyed by other properties within the vicinity. This elevation provides the subject property more than reasonable opportunity to have adequate signage on site that may be visible from all adjoining rights-of-way. No unique features exists that result in the need of the variance requested or that would result in a cessation of the commercial use if the variance is denied.

Eleven (11) property owners were notified of today's public hearing per City Code Chapter 35 - Unified Development Code.

## **ISSUE:**

According to Section 28-5 of Chapter 28 - Signs, the Board of Adjustment may grant a variance if it finds that:

1. The variance is necessary because strict enforcement of the regulation 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
3. After establishing that one or more of the findings set forth in subparagraphs 1. or 2. have been met, 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;
  - B. Granting the variance will not have a substantially adverse impact on neighboring properties; and
  - C. Granting the variance will not substantially conflict with the stated purposes of chapter 28.

## **ALTERNATIVES:**

Supporting the applicant's appeal would overturn the Board of Adjustment's action and consequently allow a 95 foot tall sign resulting in a special privilege not enjoyed by other single tenant properties similarly situated.

## **FISCAL IMPACT:**

None; the applicant has paid the required fee.

## **RECOMMENDATION:**

Staff recommends denial of the appeal of the Board of Adjustment's action. The applicant's request does not comply with the approval criteria for granting a variance as presented above and therefore the action of the Board of Adjustment was appropriate.