

Zoning Board of Adjustment
Meeting Agenda
City Council Chambers
1311 Chestnut Street
Bastrop, TX 78602



March 23, 2022 at 3:00 P.M.

City of Bastrop Zoning Board of Adjustment meetings are available to all persons regardless of disability. If you require special assistance, please contact the Board Secretary at (512) 332-8840 or write 1311 Chestnut Street, 78602, or by calling through a T.D.D. (Telecommunication Device for the Deaf) to Relay Texas at 1-800-735-2989 at least 48 hours in advance of the meeting.

As authorized by Section 551.071 of the Texas Government Code, this meeting may be convened into closed Executive Session for the purposes of seeking confidential legal advice from the City Attorney on any item on the agenda at any time during the meeting.

The City of Bastrop reserves the right to reconvene, recess, or realign the Regular Session or called Executive Session or order of business at any time prior to adjournment.

- 1. CALL TO ORDER**

- 2. CITIZEN COMMENTS**

At this time, comments will be taken from the audience on any topic.

In accordance with the Texas Open Meetings Act, if a citizen discusses any item not on the agenda, the Board cannot discuss issues raised or make any decision at this time. Instead, city Boards are limited to making a statement of specific information or a recitation of existing policy in response to the inquiry. Issues may be referred to the Staff Liaison for research and possible future action.

It is not the intention of the City of Bastrop to provide a public forum for the embarrassment or demeaning of any individual or group. Neither is it the intention of the Board to allow a member of the public to slur the performance, honesty, and/or integrity of the Board, as a body or any member or members of the Board, individually or collectively, nor any members of the city's staff. Accordingly, profane, insulting, or threatening language directed toward the Board and/or any person in the Board's presence will not be tolerated.

3. ITEMS FOR INDIVIDUAL CONSIDERATION

- 3A. Consider action to approve meeting minutes from the October 6, 2021 Zoning Board of Adjustment Meeting.
- 3B. Public Hearing and consider action on variances from the Bastrop Building Block (B³) Code, Chapter 8 – Signs, Article 8.3 (L) Pylon Signs for the number of signs, sign height, sign width, and expansion of the existing non-conforming internally illuminated pole sign on Bastrop West Commercial, Section 2, Lot 2A Resubdivision, located at 460 State Highway 71, within the City Limits of the City of Bastrop, Texas.

4. ADJOURNMENT

I, the undersigned authority, do hereby certify that this Notice of Meeting as posted in accordance with the regulations of the Texas Open Meetings Act on the bulletin board located at the entrance to the City of Bastrop City Hall, a place of convenient and readily accessible to the general public, as well as to the City's website, www.cityofbastrop.org and said Notice was posted on the following date and time: Friday, March 18, 2022 at 5:00 p.m. and remained posted for at least two hours after said meeting was convened.



Allison Land, Senior Planner

Zoning Board of Adjustments

October 6, 2021 Meeting Minutes

The City of Bastrop Zoning Board of Adjustments met Tuesday, October 6, 2021 at 6:00 p.m. in the Council Chambers located at 1311 Chestnut Street, Bastrop, Texas 78602.

1. CALL TO ORDER

Scot Robichaud called the meeting to order at 6:03 p.m.

Gary Moss	Present
Scot Robichaud	Present
Jeff Haladyna	Present
Richard Smarzik	Present
Scott Long	Present

2. CITIZEN COMMENTS

There were no comments from citizens.

3. ITEMS FOR INDIVIDUAL CONSIDERATION

3A. Introduction of new Board member Scott Long.

The Board welcomed Scott Long.

3B. Consider action to appoint board officers for the Zoning Board of Adjustments.

Gary Moss made a motion to appoint Scot Robichaud as Chair. Richard Smarzik seconded, and the motion carried unanimously.

Gary Moss made a motion to appoint Scott Long as Vice-Chair. Richard Smarzik seconded, and the motion carried unanimously.

3C. Consider action to approve meeting minutes from the September 7, 2021 Zoning Board of Adjustment Meeting.

Richard Smarzik made a motion to approve the September 7, 2021 Zoning Board of Adjustment Meeting Minutes. Gary Moss seconded the motion and the motion carried unanimously.

3D. Public hearing and consider action on an appeal of a Grandfathered Development Status Determination and request for a variance to be exempt from the Bastrop Building Block (B3) Code for Bastrop Grove Section 5 (previously called Section 2) Proposed Preliminary Plat, being 25.9 acres out of the Nancy Blakey Survey, Abstract 98, located east of SH 304 in the 600 Block west of SH 71, within the city limits of the City of Bastrop, Texas.

Trey Job presented to the Board an appeal of a Grandfathered Development Status Determination and request for a variance to be exempt from the Bastrop Building Block (B3) Code for Bastrop Grove Section 5.

Zoning Board of Adjustments

October 6, 2021 Meeting Minutes

Trey Job stated Staffs contention on this matter is the applicant did not meet the requirements to continue moving forward in the two-year timeframe as required in Chapter 245.

He stated the Applicant was requesting to repeal the City Manager's determination to uphold Staff's recommendation for the Grandfathering date to be January 22, 2019. There request is to remand back to the City manager for reconsideration.

Trey Job stated the Zoning Board of Adjustment would need to determine at this time did the City Manager make a mistake regarding the Grandfathered development status, and if so the Zoning Board of Adjustment could remand the matter back to the City Manager to re-evaluate; or the Zoning Board of Adjustment could determine to issue a ruling regarding the Grandfathering status at this time. Jennifer Bills stated furthermore, the applicant was requesting the Zoning Board of Adjustment entertain the request to a variance from the B3 Code for the development if the Grandfathering Appeal was going to be denied by the Zoning Board of Adjustment.

Douglas McMahan, an owner of the Bastrop Grove Project, read aloud a letter for the record.

Brenden McEntee, CBD Engineer spoke about the exemption process in relation to the project.

The Zoning Board of Adjustment convened into closed executive session at 6:38 p.m.

The Zoning Board of Adjustment adjourned from their closed executive session and reconvened into their meeting at 7:57 p.m.

Discussion commenced between Board members, staff and the applicant that included the following topics:

1. The merit January 28, 2019 email from Jennifer Bills regarding the exemption and preliminary plat status.
2. What the outcome for the project would be if the Board recommended to grant the Grandfathering request for the project to be vested to the January 22, 2019 subdivision ordinance.

The Zoning Board of Adjustment convened into closed executive session at 8:17 p.m.

The Zoning Board of Adjustment adjourned from their closed executive session and reconvened into their meeting at 8:51 p.m.

Richard Smarzik made a motion to reverse the City Managers determination and to set the grandfathering date back to January 22, 2019. Gary Moss seconded the motion and the motion carried unanimously.

Doug McMahan asked the board for clarity on if the motion granted meant the project would go back to the city manager for a zoning determination? Scot Robichaud stated the applicant would be required to follow all of the currently adopted zoning processes and requirements.

Zoning Board of Adjustments

October 6, 2021 Meeting Minutes

4. ADJOURNMENT

Gary Moss made a motion to adjourn the meeting at 8:53 pm. Jeff Haladyna seconded the motion and the motion carried unanimously.

Chair

Vice-Chair



STAFF REPORT

MEETING DATE: March 23, 2022

Item: 3B

TITLE:

Public hearing and consider action on variances from the Bastrop Building Block (B³) Code, Chapter 8 – Signs, Article 8.3 (L) Pylon Signs for the number of signs, sign height, sign width, and expansion of the existing non-conforming internally illuminated pole sign on Bastrop West Commercial, Section 2, Lot 2A Resubdivision, located at 460 State Highway 71, within the City Limits of the City of Bastrop, Texas.

STAFF REPRESENTATIVE:

Allison Land, Senior Planner

ITEM DETAILS:

Site Address: 460 Highway 71 West (Attachment 1)
Total Acreage: 0.51 acres
Legal Description: Bastrop West Commercial, Section 2, Lot 2A

Property Owner/Applicant: Steve Durso, Steve Durso Properties

Existing Use: Retail/Commercial
Existing Zoning: P5 Core

BACKGROUND/HISTORY:

The Applicant requested a variance in 2017 that was approved by the Zoning Board of Adjustments (Attachment 4). Signs were never installed, and the approval expired. The applicant is requesting what was approved in 2017, which is to add additional signage of four feet tall by 23 feet wide below the existing Game Stop/T-Mobile sign along the Highway 71 eastbound frontage road (in front of Walmart). The building has been reconfigured from one tenant space to four tenant spaces, each of which would like pylon signage.



Existing Sign

The Applicant is asking to place the new sign area in the open space directly below the existing sign, removing the existing satellite.

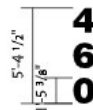
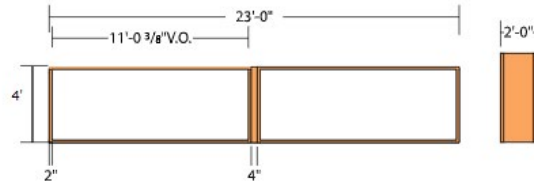
Proposed Sign:



PROPOSED - SCALE: 1/8" = 1'



EXISTING - NTS



SCOPE OF WORK

- REMOVE AND DISCARD DISH & VERTICAL BAR.
- MFR AND INSTALL D/F ILLUMINATED CABINET:
- ALUM. RETURNS AND RETAINERS PTM (P1)
- WHITE POLYCARBONATE FACES
- WHITE 3000K LED ILLUMINATION
- REPAINT HORIZONTAL CROSS BAR TO MATCH (P1)
- MFR AND INSTALL (V1) VINYL ADDRESS NUMBERS.



070 BLACK



T.B.D.

A sign inventory completed in 2005 by the Planning staff shows only the existing sign area and there is no indication or record that there was ever more sign area. Photo taken June 3, 2005.



Per B³ Code Sec. 8.3 L, Pylon Signs, one pylon sign is allowed per frontage. This property has one frontage. The max height is 35 feet. This existing sign is 60 feet tall. At 35 feet tall, the max sign width is 8.75, which is calculated as being a 4:1 ratio. At 60 feet tall, the ratio provides for a sign width of 15 feet. The existing sign is 35 feet wide, and the proposed signage is 23 feet wide to fit between the two poles. The Code also requires a two-foot stone, stucco, brick, or wood base to enclose each pole. The existing sign does not have this as it was not a requirement at the time of original construction. The building is being divided up into more tenant spaces than had previously existed. The existing sign was designed to serve only one or two tenants. The property owner's action of making new tenant spaces without dividing up the existing sign is driving the desire for additional signs.

Summary of Request

	Height (feet)	% over max. allowed	Sign Dimensions (feet)	Allowed Sign Width at a 4:1 Ratio (feet)	% over max. allowed	% increase from existing
Pylon Sign Requirements (Sec. 8.3 L)	35			8.75		
Existing Sign						
Total Pylon Sign Size	60	71%	8 x 35	15	71%	
Proposed Sign						
Additional Signage	52	49%	4 x 23	13	49%	

PUBLIC COMMENTS:

Six (6) adjacent property owner notifications were mailed on March 11, 2022. At the time of this report, no responses have been received.

POLICY EXPLANATION:

The Zoning Board of Adjustment 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. In order to grant a variance from these zoning regulations, the Board of Adjustments must make written findings that undue hardship exists, using the following criteria:

- (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.

The property is located on a pad site in front of Wal-Mart, directly on the SH 71 eastbound frontage road. The wall signs on the building are visible from both the frontage road and the elevated main lanes. (Attachment 5)

- (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 site does not have any unique topographic conditions or physical features that are not experienced by property with frontage along SH 71 west of the river.

- (3) Proposed Sign location, configuration, design, materials, and colors are harmonious.

The sign is existing and requesting expansion between the existing poles, at a height that is greater than the allowed 35 feet. The City does not regulate color.

- (4) The Sign and its supporting structure are in architectural harmony with the surrounding Structures.

The Code requires a two-foot stone, stucco, brick, or wood base to enclose each pole. The existing sign does not have this as it was not a requirement at the time of original construction. This, combined with the overall scale of the sign, are not in harmony with its surroundings.

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

No mitigation measures are proposed. The applicant is proposing additional pylon and band/wall signage for the increased number of tenants.

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

Extremely large signs create more visual stimuli and clutters the field of vision. The large poles are awkward and obtrusive on site.

- (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.

A Master Sign Plan has been submitted, but additional Pylon signs could not be approved with that sign plan.

- (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 overall height, width, and number of existing signs are non-conforming and not proposed to be reduced, plus additional signage is proposed.

RECOMMENDATION:

Hold public hearing and consider action on variances from the Bastrop Building Block (B³) Code, Chapter 8 – Signs, Article 8.3 (L) Pylon Signs for the number of signs, sign height, sign width, and expansion of the existing non-conforming internally illuminated pole sign on Bastrop West

Commercial, Section 2, Lot 2A Resubdivision, located at 460 State Highway 71, within the City Limits of the City of Bastrop, Texas.

ATTACHMENTS:

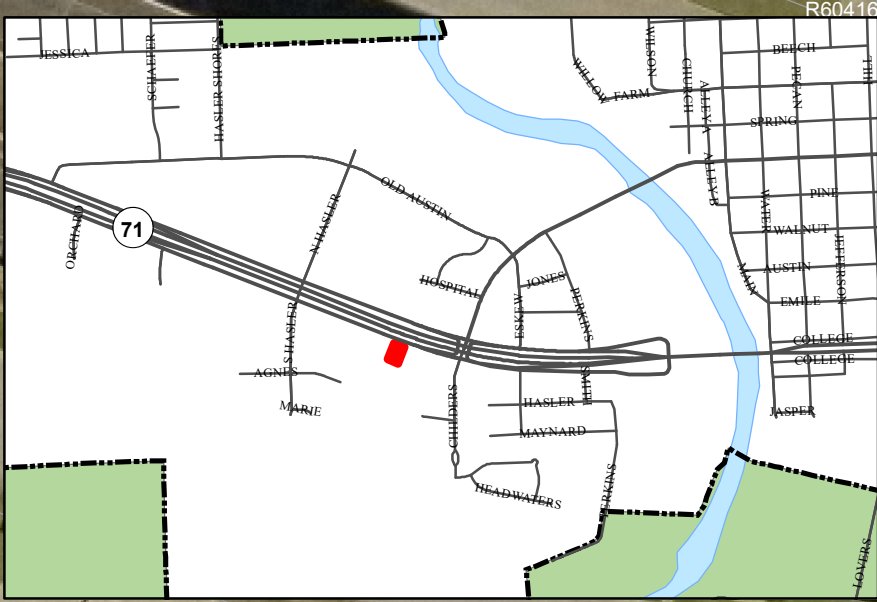
Attachment 1: Location Map

Attachment 2: Letter from Applicant

Attachment 3: Notice to Property Owners

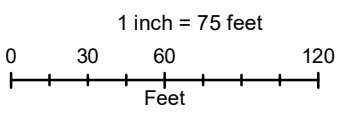
Attachment 4: 2017 Record of Action

Attachment 5: Pictures from Roadway



- Legend**
- Parcel of Concern
 - Parcels

Location Map
Bastrop West Commercial
Section 2, Lot 2A



Date: 5/25/2017

N The accuracy and precision of this cartographic data is limited and should be used for information/planning purposes only. This data does not replace surveys conducted by registered Texas land surveyors nor does it constitute an "official" verification of zoning, land use classification, or other classification set forth in local, state, or federal regulatory processes. The City of Bastrop, nor any of its employees, do not make any warranty of merchantability and fitness for particular purpose, or assumes any legal liability or responsibility for the accuracy, completeness or usefulness of any such information, nor does it represent that its use would not infringe upon privately owned rights.

12/13/2021

Dear Board of Adjustment Members,

Thank you for your time to review this request. I am re-submitting a sign variance request that was approved on 6/7/2017 for 460 Hwy 71 West. I have attached the documentation from the original hearing with the approval.

The center is in front of Walmart and is presently occupied by GameStop and T-Mobile. I have owned the building since 11/2010. The building is approximately 6000 square feet. Originally, GameStop occupied 2150 square feet and Cellular One, whom I purchased the property from, occupied the remaining 3850 square feet which they vacated in 12/2016.

Cellular One had no retail presence, just switching and routing equipment in their space, and therefore did not require any signage. GameStop wanted the entire sign space that you see today, but I allowed space for a future tenant. Thankfully, I signed a T-Mobile franchisee in 2017. They took 1200 feet and the other half of the main sign as a condition of the lease.

As stated in the original request for variance, that left me with 2650 feet of vacant space and probably 2 tenants that would need signage. I have one under contract now that has yet to move in and they will have 1000 feet. That will leave 1650 feet and will equate to one more tenant, or a total of four as predicted in the 2017 request.

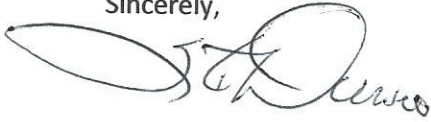
GameStop occupies all of the front-facing traffic area from the access road and Aaron's blocks any visibility looking west. Driving east on the frontage road it is very difficult to see anything after the old Payless store and this does not even take into account the vegetation. There is no direct access off of the frontage road and signage is the only way to draw traffic to the property. If you are turning in at Scholtzky's there is no ability to see the building signs for the new tenants and the same is true of the entrance at Aaron's. The prospective tenants are small "Mom and Pop" type businesses that do not have big advertising budgets and depend heavily on signage to achieve success. If you are driving on Hwy 71 this is all magnified by the increase in speed.

I am requesting a new panel below the existing one exactly as was approved before. I had asked for an 8' x 23' sign and a 4' x 23' was approved. The building has sat vacant all this time. I went in to request a permit 10/2021 to add the panel after I finally signed the new tenant and I was surprised to be told that the variance had expired. I would have installed the new panel in 2017 but was told that it could not sit vacant and I had no prospects at the time.

The addition of the panel will result in a much more visually appealing experience as it will include removal of the satellite dish and new paint. The proximate neighbors will not be impacted because essentially the panel will replace the dish.

As Bastrop grows and is inundated with large corporations, it is important to remember that the small business owner is still the backbone of any community and anything we can do to help them succeed should be considered.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Durso". The signature is fluid and cursive, with a large, sweeping initial "S" that loops back to the left.

Steve Durso



**Notice of Public Hearing
City of Bastrop
Zoning Board of Adjustment**

Dear Property Owner:

The **Zoning Board of Adjustment** will conduct a public hearing on **Wednesday, March 23, 2022 at 3:00 p.m.** in the **City Hall Council Chambers** located at **1311 Chestnut Street, Bastrop, Texas** on the following request:

Public Hearing and consider action on variances from the Bastrop Building Block (B³) Code, Chapter 8 – Signs, Article 8.3 (L) Pylon Signs for the number of signs, sign height, sign width, and continued use of the existing non-conforming internally illuminated pole sign on Bastrop West Commercial, Section 2, Lot 2A Resubdivision, located at 460 State Highway 71, within the City Limits of the City of Bastrop, Texas.

Applicant/Owner: Steve Durso Properties LLC
Address: 460 W SH 71
Legal Description: Bastrop West Commercial Sec 2, Lot 2 A (RESUB of Lot 2), Acres 0.5100

The site location map and a letter from the property owner is attached for reference.

As a property owner within 200 feet of the above referenced property, you are being notified of the upcoming meetings per the Bastrop Code of Ordinances. For more information or to provide comments on this project, you may contact the Planning & Development Department at (512) 332-8840, plan@cityofbastrop.org, visit the office at 1311 Chestnut Street, Bastrop, Texas, or mail the response card below to PO Box 427, Bastrop, Texas 78602. The agenda will be posted 72 hours in advance at:

https://www.cityofbastrop.org/page/cs.board_agendas.



PROPERTY OWNER'S RESPONSE

As a property owner within 200 feet: (please check one)

- I am in favor of the request.
- I am opposed to the request.
- I have no objection to the request.

Property Owner Name: _____

Property Address: _____

Mailing Address (if different than property address: _____

Phone (optional): _____ Email (optional): _____

Property Owner's Signature: _____

Additional Comments (Optional):

Re: 22-000102 - Sign Variance

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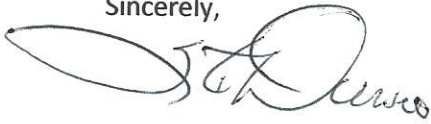
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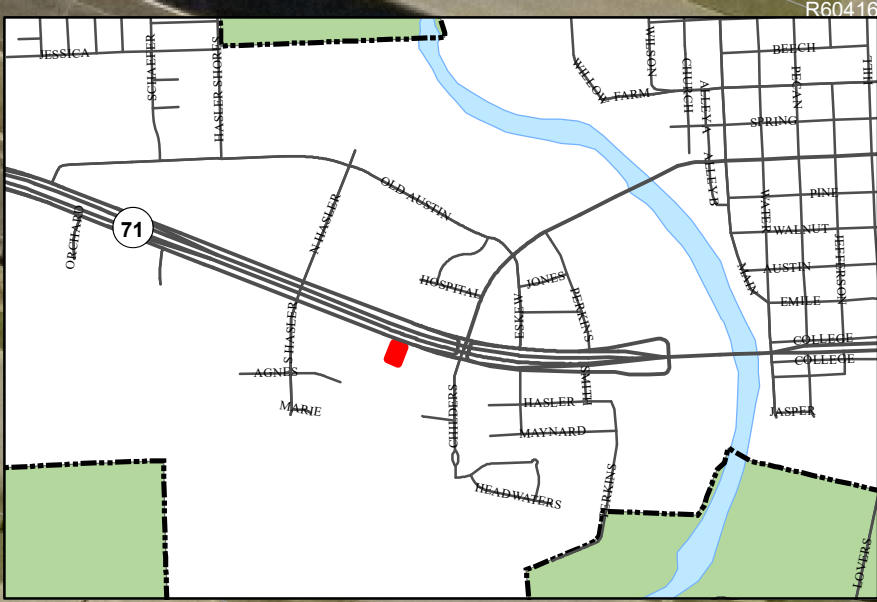
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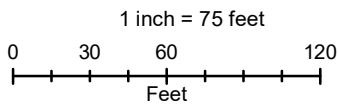
Steve Durso



Legend

- Parcel of Concern
- Parcels

Location Map
Bastrop West Commercial
Section 2, Lot 2A



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**RECORD OF ACTION
ZONING BOARD OF ADJUSTMENT
CITY OF BASTROP, TEXAS**

WHEREAS, Steve Durso, ("Applicant") submitted a request for a Zoning Variance to Section 3.20.16 (4) (D) of the Sign Ordinance to add additional signage at 460 Highway 71 West, being Lot 2A of Bastrop West Commercial, Section 2, within the city limits of Bastrop, Texas ("Property"); and

WHEREAS, the Property is located in an area zoned under the Bastrop Zoning Ordinance as C-2, Commercial-2; and

WHEREAS, the Applicant has requested a variance in accordance with Section 9.8 of the Bastrop Zoning Ordinance; and

WHEREAS, the Applicant is requesting a new sign, adding an additional 92 square feet of sign area at a height of 48 feet to an existing legal nonconforming pylon sign with 280 square feet of existing sign area at a height of 60 feet; and

WHEREAS, Section 3.20.16 (4) (D) allows 160 square feet of sign area at a maximum height of 35 feet; and

WHEREAS, the Applicant alleges that strict compliance with the Bastrop Zoning Ordinance would result in undue hardship, pursuant to Section 9.6 of the Bastrop Zoning Ordinance; and

WHEREAS, public notice has been given and public hearing was held on June 7, 2017 before the Bastrop Zoning Board of Adjustment, with at least the statutory required 75% of members being present, and

WHEREAS, in order to grant a variance from these zoning regulations, the Zoning Board of Adjustments must make written findings.

NOW THEREFORE, THE BASTROP ZONING BOARD OF ADJUSTMENT MAKES THE FOLLOWING FINDINGS:

1. In order to grant a variance from these zoning regulations, the Board of Adjustments must make written findings that undue hardship exists, using the following criteria:

a. Special circumstances or conditions exist which affect the land involved such that the strict application of the provisions of this ordinance would deprive the applicant of the reasonable use of the land.

- **The pylon sign was originally permitted under a previous code. With the removal of the satellite drum, similar square footage will be maintained.**

<p>b. <i>The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant.</i></p> <ul style="list-style-type: none"> • Allowing the signage will ensure all tenant spaces have signs for the public to locate the businesses in those spaces.
<p>c. <i>Granting of the variance will not be detrimental to the public health, safety or welfare or injurious to other property in the area, and the spirit of the ordinance will be observed. Variance may be granted only when in harmony with the general purpose and intent of this ordinance.</i></p> <ul style="list-style-type: none"> • The new cabinet will not increase the height or the width of the existing pylon sign. The expansion of the legal nonconforming sign will be in the spirit of the existing guidelines of the current sign code. Replacement of the satellite tub with standard horizontal signs will improve the overall appearance of the structure.
<p>d. <i>Granting of a variance will not have the effect of preventing the orderly use of other land in the area in accordance with the provisions of this ordinance.</i></p> <ul style="list-style-type: none"> • Additional signage will not adversely affect surrounding properties.
<p>e. <i>Granting of a variance must be predicated on a finding that the applicant's practical difficulties or unnecessary hardship arise from unusual conditions or circumstances, such as exceptional irregularity of the land involved, which are not shared generally by other parcels in the neighborhood or district.</i></p> <ul style="list-style-type: none"> • This site has a legal non-conforming sign similar to the other surrounding properties.
<p>2. <i>A variance is to be denied if conditions or circumstances relied on for a variance were created by a person having an interest in the property.</i></p> <ul style="list-style-type: none"> • New multi-tenant buildings coming in today would have the option for a comprehensive sign plan to ensure all tenant spaces are allotted signage. This space is without reasonable accommodation for signage for all tenant spaces within the 6,000-square foot building. By allowing the current sign square footage to be reconfigured into linear horizontal sign cabinets from the current satellite drum all tenant spaces will have adequate signs.

<p>3. <i>Financial hardship to the applicant, standing alone, shall not be deemed to constitute a hardship.</i></p> <ul style="list-style-type: none"> • The applicant is not claiming a financial hardship, but is seeking adequate visibility for the building tenants.
<p>4. <i>The applicant bears the burden of proof in establishing the facts justifying a variance.</i></p> <ul style="list-style-type: none"> • The applicant provided illustrations and demonstrated that the future signage will be more compliant with the code than the existing satellite that was used as signage in the past.

Therefore, the request to grant the variance to Section 3.20.16 (4) (D) to allow an additional 92 square feet of sign area at a height of 48 feet to an existing legal nonconforming pylon sign with 280 square feet of existing sign area at a height of 60 feet, as noted herein, **IS HEREBY GRANTED**, with the following conditions:

1. The new signage can be a maximum of 92 square feet, 23 feet in width by 4 feet in height, spaced approximately 4 feet from the top of the new sign to the bottom of the existing sign cabinet. Prior to the installation of the new sign, the existing drum satellite must be completely removed.

This matter was heard by at least 75% of the members of the Board who voted as follows:

Dan Hays-Clark	Approve
Blas Coy	Approve
Matthew Lassen	Approve
Bob Rogers	Approve
Herb Goldsmith	Approve

And; The action of the Bastrop Zoning Board of Adjustment, concerning this request for a variance to the City's Zoning Ordinance, was **approved** by a minimum of at least four (4) members of the Board, in full compliance with the Local Government Code, Section 211.009(c)(3); and

As required by the Local Government Code, Section 211.008(f), minutes of this proceeding shall be kept on file in the Board's office, and are public records.

NOW THEREFORE, the above request for a variance was heard and **approved** on June 7, 2017 by the Bastrop Zoning Board of Adjustment.

By:  Presiding Officer

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