

City of Bastrop



Agenda Information Sheet:

Municipal Sign Review Board Meeting Date:
MSRB V16:03

December 7, 2016
Agenda # 6

Public Notice Description:

Wavier "Variance" to Sign Ordinance, Section 3.20.016 (1)(D)(i)(a)(ii), to allow a pylon sign to be approximately 70 feet in height with an area of 400 square feet, where a maximum height allowance is 35 feet with an area of 160 square feet for the property, located at 601 Highway 95, at the northeast corner of Highway 71 and Highway 95 Buc-ee's Store 28 Subdivision, Block A, Lot 1 being +/- 13.431 acres within the city limits.

Applicant:	Buc-ee's
Owner:	Buc-ee's LTD.
Location:	601 State Highway 95, Located in the City Limits
Utilities:	City water, sewer and electric
Zoning:	C-2- Commercial 2
Land Use Plan:	Commercial

Request:

Buc-ee's is located at 601 Highway 95, at the northeast corner of Highway 71 and Highway 95 within Buc-ee's Store 28 Subdivision, Block A, Lot 1 being +/- 13.431 acres. Buc-ee's LTD., the owner of the property, is requesting to allow the sign be 70 feet in height with an area of approximately 400 square feet where 35 feet tall and 160 square feet are the maximums allowed in the City's Sign Ordinance, Section 3.20.016 (1)(D)(i)(a)(ii). The Owner has stated that the placement of the proposed, 70-foot tall, 400 square foot pylon sign will ensure that the sign is legible and will help patrons locate this business without undue hardship created by the overpass, under construction at the corner of Highway 71 and Highway 95. With the elevation change the height restriction would render a 35-foot-tall sign ineffective. A sign area of 400 square feet is typical of the size required for visibility at freeway speeds.

Sec. 3.20.016 - Sign dimensional standards by sign category

(4) Pylon

(D) Business.

(i) Area

a. Sign Area: 160 square feet

ii. Height: 35 feet

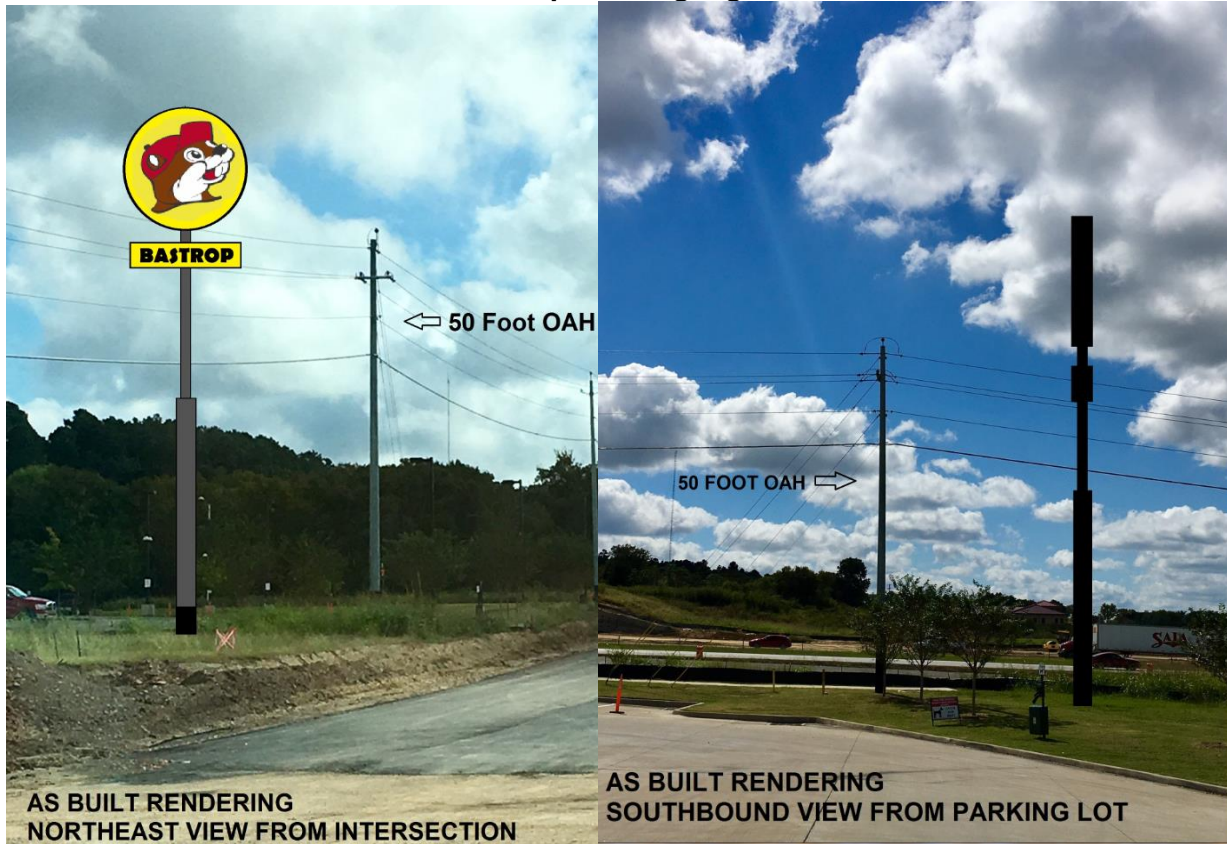
Location Map



Existing Site Location



Proposed Signage



Comparable Signage on SH 71



Westbound 71, North side of 71



Westbound 71, North side of 71



Eastbound 71, North of 71: 86 Feet OAH



Westbound 71, South of 71: 84 Feet OAH



Eastbound 71 Frontage Rd., South side of 71



Eastbound 71 Frontage Rd., South side of 71



Westbound 71, South side of 71



Eastbound 71, South side of 71

Variance Criteria:

Variances to the City's sign standards are allowed under City's Sign Code, Section 3.20.022. The Municipal Sign Review Board, comprised of all BOA members (members and alternates), hear requests for such variances and may authorize variances to the City's sign regulations when application of the Code would result in undue hardship to the applicant, and the applicant proves a non-economic hardship is posed that is not of the applicant's making. [Note: The Criteria for making Findings, when determining whether to allow a variance, is different for the Municipal Sign Review Board, than for the Board of Adjustments.]

3.20.022 Municipal Sign Review Board; Variances

(b) Variances. A variance to the provisions of this article shall be considered an exception to the regulations, rather than a right. The Municipal Sign Review Board may authorize a variance from the regulations of this article by a majority vote when, in its opinion, **undue hardship will result from requiring strict compliance**. The following limitations and criteria shall be used by the board to evaluate, "grant" or "deny" any sign variance request:

Criteria for Findings

1. **Undue hardship:**

Special circumstances exist which affect the land and development involved such that the strict application of the provisions of this Article:

a. **Would deprive the owner or applicant of the ability to advertise the business or a product;**

In this case, the Owner has stated that the placement of the proposed, 70-foot tall, 400 square foot pylon sign will ensure that the sign is legible and will help patrons locate this business without undue hardship created by the overpass under construction at the corner of Highway 71 and Highway 95. With the elevation change the height restriction would render a 35-foot-tall sign ineffective. A sign area of 400 square feet is typical of the size required for visibility at freeway speeds.

b. **Granting of a variance shall be based on a finding that the applicant's difficulties or hardship are due to unusual conditions or circumstances, such as irregularly shaped parcel of land;**

Although the site is not irregularly shaped, TXDOT is currently building an overpass on Highway 71, in front of this business location.

c. **Granting of a variance will not adversely affect surrounding property owners and use;**

Surrounding property owners would not be affected by the installation of this sign. There are no other signs for this space on the frontage roads.

d. **Granting a variance shall not be detrimental to the public health, safety or welfare;**

The granting of the variances will not be detrimental to the public health, safety or welfare.

e. **Financial hardship alone shall not be grounds for a variance.**

Financial consideration has not been identified by the Applicant as a reason for the variance request.

- 2. A variance shall not be approved if the circumstance for the hardship were caused or created by the owner of the property or the applicant seeking the variance.**

The Owner did not create the issues/hardships.

Comments:

Notifications of the requested variance were mailed on November 14, 2016 to ten (10) adjacent property owners, which own property within 200 feet of the Buc-ee's site. No comments have been received at the time of this report.

Recommended Action:

Staff recommends approval of waiver "Variance" for a pylon sign with an overall height of 70-feet and a total of 400 square feet. This will serve as the only street signage for this business with two highway frontages.

City Contact:

Wesley Brandon, City Engineer

Attachments: Location map, proposed signage, comparison signage, property owner letter, surrounding property owner response, and Findings of Fact.

**ACTION OF THE CITY OF BASTROP
MUNICIPAL SIGN REVIEW BOARD**

GRANTING WAIVER “VARIANCE”

WHEREAS, Buc-ee’s LTD. (“Applicant”) of Bastrop, Texas, the owner of the property legally described as being approximately 13.431 acres located at 601 Highway 95, at the northeast corner of Highway 71 and Highway 95 Buc-ee’s Store 28 Subdivision, Block A, Lot 1. The subject property is in the City of Bastrop, Bastrop County, Texas (“Property”); and

WHEREAS, said Property is zoned C-2- Commercial 2 and is classified in the Business sign category; and

WHEREAS, Applicant has applied for a variance to the City of Bastrop Sign Ordinance, for the Property within the Business sign category, in accordance with Section 3.20.022; and

WHEREAS, Applicant desires a variance be granted as follows:

Section 3.20.016 (1)(D)(i)(a)(ii), to allow a pylon sign to be approximately 70 feet in height with an area of 400 square feet, where a maximum height allowance is 35 feet with an area of 160 square feet for the property, located at 601 Highway 95, at the northeast corner of Highway 71 and Highway 95 Buc-ee’s Store 28 Subdivision, Block A, Lot 1 being +/- 13.431 acres within the city limits.

WHEREAS, Applicant has filed a proper request for such variance; and

WHEREAS, Applicant alleges that strict compliance with the City’s Sign Ordinance would result in undue hardship to the prospective tenant, pursuant to Section 3.20.022(b)(1) of the City’s Sign Ordinance; and

WHEREAS, public notice has been given and a public hearing was held on December 7, 2016 before the Bastrop Municipal Sign Review Board, with at least the statutory required 75% of members being present.

NOW THEREFORE, THE BASTROP MUNICIPAL SIGN REVIEW BOARD FINDS THAT:

1. The circumstances required for granting approval of the above described variance, as set out in Section 3.20.022(b) of the City’s Sign Ordinance, do exist on the property legally described as being approximately 13.431 acres located at 601 Highway 95, at the northeast corner of Highway 71 and Highway 95, Buc-ee’s Store 28 Subdivision, Block A, Lot 1, City of Bastrop, Bastrop County, Texas:

CRITERIA for Findings	
X	<p>1. Undue Hardship. Special circumstances exist which affect the land and development involved such that the strict application of the provisions of this article: (a) would deprive the owner or applicant of the ability to advertise the business or a product:</p> <p><i>In this case, the Owner has stated that the placement of the proposed, 70-foot tall, 400 square foot pylon sign will ensure that the sign is legible and will help patrons locate this business without undue hardship created by the overpass under construction at the corner of Highway 71 and Highway 95. With the elevation change the height restriction would render a 35-foot-tall sign ineffective. A sign area of 400 square feet is typical of the size required for visibility at freeway speeds.</i></p>
X	<p>2. Granting of the variance is based on a finding that the applicant's difficulties or hardship are not due to unusual conditions or circumstances, such as irregularly shaped parcel of land; and</p> <p><i>Although the site is not irregularly shaped, TXDoT is currently building an overpass on Highway 71, in front of this business location.</i></p>
X	<p>3. Granting of the variance is based upon the determination that the variance would adversely affect surrounding property owners and use; and</p> <p><i>Surrounding property owners would not be affected by the installation of this sign. There are no other signs for this space on the frontage roads.</i></p>
X	<p>4. Granting the variance would not be detrimental to the public health, safety or welfare; and</p> <p><i>The granting of the variances will not be detrimental to the public health, safety or welfare.</i></p>
X	<p>5. Financial hardship to the applicant, standing alone, has <u>NOT</u> been claimed.</p> <p><i>Financial consideration has not been identified by the Applicant as a reason for the variance request.</i></p>
X	<p>6. A variance shall not be approved if the circumstance for the hardship is caused or created by the owner of the property or the applicant seeking the variance.</p> <p><i>The Owner did not create the issues/hardships.</i></p>
X	<p>7. Financial hardship to the applicant, standing alone, has <u>NOT</u> been claimed.</p>

2. Therefore, the request to grant the variance to the Sign Standards, as noted herein, IS HEREBY GRANTED.

3. This matter was heard by at least 75% of the members of the Municipal Sign Review Board who voted as follows:

- A. Blas Coy _____
- B. Dan Hays-Clark _____
- C. Herb Goldsmith _____
- D. Bob Rogers _____
- E. Matthew Lassen _____
- F. Alyssa Halle-Schramm ABSENT

4. The action of the Bastrop Municipal Sign Review Board, concerning this request for a variance to the City's Sign Ordinance, was approved by a majority vote of the Board, as required by Section 3.20.022(b).

5. Minutes of this proceeding shall be kept on file in the Municipal Sign Review Board's office, and are public records.

NOW THEREFORE, the above request for a variance was heard and granted on December 7, 2016, by the Bastrop Municipal Sign Review Board.

By: Presiding Officer

STATE OF TEXAS

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COUNTY OF BASTROP

**MUNICIPAL SIGN REVIEW BOARD
CERTIFICATE OF AUTHENTICITY OF
VARIANCE FROM CITY OF BASTROP'S SIGN CODE REQUIREMENTS**

I, Ann Franklin, City Secretary of the City of Bastrop, hereby certify that the attached "Action of the City of Bastrop Municipal Design Review Board Granting Variance" is a true and correct copy of the original document in the Municipal Sign Review Board Office, and I further certify that such document accurately reflects the action granting a variance taken by the Municipal Sign Review Board on December 7, 2016.

Ann Franklin
City Secretary
City of Bastrop

Subscribed and sworn to before me on this the _____ day of _____, 2016 to certify which witness my hand and official seal.

Notary Public in and for the State of Texas

My Commission Expires: _____, 20__

**ACTION OF THE CITY OF BASTROP
MUNICIPAL SIGN REVIEW BOARD**

DENYING WAIVER “VARIANCE”

WHEREAS, Buc-ee’s LTD. (“Applicant”) of Bastrop, Texas, the owner of the property legally described as being approximately 13.431 acres located at 601 Highway 95, at the northeast corner of Highway 71 and Highway 95 Buc-ee’s Store 28 Subdivision, Block A, Lot 1. The subject property is in the City of Bastrop, Bastrop County, Texas (“Property”); and

WHEREAS, said Property is zoned C-2- Commercial 2 and is classified in the Business sign category; and

WHEREAS, Applicant has applied for a variance to the City of Bastrop Sign Ordinance, for the Property within the Business sign category, in accordance with Section 3.20.022; and

WHEREAS, Applicant desires a variance be granted as follows:

Section 3.20.016 (1)(D)(i)(a)(ii), to allow a pylon sign to be approximately 70 feet in height with an area of 400 square feet, where a maximum height allowance is 35 feet with an area of 160 square feet for the property, located at 601 Highway 95, at the northeast corner of Highway 71 and Highway 95 Buc-ee’s Store 28 Subdivision, Block A, Lot 1 being +/- 13.431 acres within the city limits.

WHEREAS, Applicant has filed a proper request for such variance; and

WHEREAS, Applicant alleges that strict compliance with the City’s Sign Ordinance would result in undue hardship to the prospective tenant, pursuant to Section 3.20.022(b)(1) of the City’s Sign Ordinance; and

WHEREAS, public notice has been given and a public hearing was held on December 7, 2016 before the Bastrop Municipal Sign Review Board, with at least the statutory required 75% of members being present.

NOW THEREFORE, THE BASTROP MUNICIPAL SIGN REVIEW BOARD FINDS THAT:

The circumstances required for granting approval of the above described variance, as set out in Section 3.20.022(b) of the City’s Sign Ordinance, do not exist on the property legally described as being approximately 13.431 acres located at 601 Highway 95, at the northeast corner of Highway 71 and Highway 95, Buc-ee’s Store 28 Subdivision, Block A, Lot 1, City of Bastrop, Bastrop County, Texas:

CRITERIA for Findings	
	<p>1. There are no special circumstances or conditions that exist which affect the land involved such that the strict application of the provisions of this ordinance would deprive the applicant of reasonable use of the land;</p> <p>_____</p> <p>_____</p>
	<p>2. The variance is not necessary for the preservation and enjoyment of a substantial property right of the applicant;</p> <p>_____</p> <p>_____</p>
	<p>3. Granting the variance would 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. Variances may be granted only when in harmony with the general purpose and intent of this ordinance;</p> <p>_____</p> <p>_____</p>
	<p>4. Granting of the variance would have the effect of preventing the orderly use of other land in the area in accordance with the provisions of this ordinance;</p> <p>_____</p> <p>_____</p>
	<p>5. The applicant's practical difficulties or unnecessary hardship do not arise from unusual conditions or circumstances, which are not shared generally by other parcels in the neighborhood or district;</p> <p>_____</p> <p>_____</p>
	<p>6. The conditions or circumstances relied on for the variance was created by a person having an interest in the property.</p> <p>_____</p> <p>_____</p>
	<p>7. Financial hardship to the applicant, standing alone, has been claimed.</p> <p>_____</p> <p>_____</p>

Therefore, the request to grant the variance to the Sign Standards, as noted herein, IS HEREBY DENIED.

3. This matter was heard by at least 75% of the members of the Municipal Sign Review Board who voted as follows:

- A. Blas Coy _____
- B. Herb Goldsmith _____
- C. Bob Rogers _____
- D. Matthew Lassen _____
- E. Dan Hays-Clark _____
- F. Alyssa Halle-Schramm ABSENT_____

- 4. The action of the Bastrop Municipal Sign Review Board, concerning this request for a variance to the City's Sign Ordinance, was not approved by a majority vote of the Board, as required by Section 3.20.022(b).
- 5. Minutes of this proceeding shall be kept on file in the Municipal Sign Review Board's office, and are public records.

NOW THEREFORE, the above request for a variance was heard and denied on December 7, 2016, by the Bastrop Municipal Sign Review Board.

By: Presiding Officer

STATE OF TEXAS

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COUNTY OF BASTROP

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**MUNICIPAL SIGN REVIEW BOARD
CERTIFICATE OF AUTHENTICITY OF
VARIANCE FROM CITY OF BASTROP'S SIGN CODE REQUIREMENTS**

I, Ann Franklin, City Secretary of the City of Bastrop, hereby certify that the attached "Action of the City of Bastrop Municipal Design Review Board Denying Variance" is a true and correct copy of the original document in the Municipal Sign Review Board Office, and I further certify that such document accurately reflects the action denying a variance taken by the Municipal Sign Review Board on December 7, 2016.

Ann Franklin
City Secretary
City of Bastrop

Subscribed and sworn to before me on this the _____ day of _____, 2016 to certify which witness my hand and official seal.

Notary Public in and for the State of Texas

My Commission Expires: _____, 20__