

City of Bastrop



Agenda Information Sheet:

Municipal Sign Review Board Meeting Date:
MSRB V16:02

October 5, 2016
Agenda #8

Public Notice Description:

Wavier "Variance" to Sign Ordinance, Section 3.20.016 (1)(D)(i)c, to allow a wall sign to be approximately 293 square feet where 95 square feet is allowed for the tenant property located at 441 Highway 71 West, Located West of Loop 150 and East of Hasler Blvd within Bastrop West Commercial Section 1, Block A, Lot 2 being +/- 5.8467 acres within the city limits.

Applicant: Atlas Sign Industries
Owner: Hwy 71 Bastrop LTD, Matt Bandy, VP
Location: 441 Highway 71 West, Located in the City Limits
Utilities: City water, sewer and electric
Zoning: C-2- Commercial 2
Land Use Plan: Commercial

Request:

Harbor Freight Tools is a proposed retail tenant to join the other businesses located at 441 Highway 71 West, located West of Loop 150 and East of Hasler Blvd within Bastrop West Commercial Section 1, Block A, Lot 2 being +/- 5.8467 acres. Atlas Signs and the owner of the property, on behalf of Harbor Freight Tools, is requesting to allow the sign area be approximately 293 square feet where 95 square feet is the maximum allowed in the City's Sign Ordinance, Section 3.20.016, (1)(D)(i)c. The tenant space is set back from the highway approximately 430 feet and the applicants feel that the setback is too extensive for a 95 square foot sign to be seen clearly by Bastrop residents trying to locate the retailer and would cause undue hardship.

Sec. 3.20.016 - Sign dimensional standards by sign category

(1) Building wall

(D) Business.

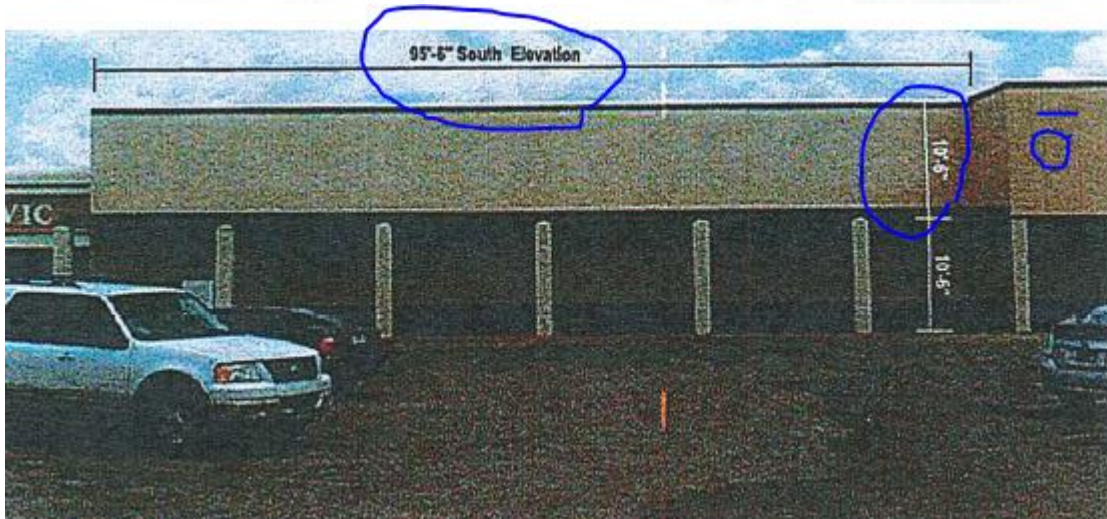
(i) Area:

(c) Ratio of one square foot per linear foot of primary facade for buildings or tenant spaces with greater than seventy-five (75) linear feet of primary facade.

Existing Site Location



Proposed Signage and building elevations



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, 293 square foot wall sign will make sure that the sign is legible and will help patrons locate the new business without undue hardship.

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, the buildings are set 430 feet back from the traveling roadway.

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

The Owner is requesting this on behalf of the prospective new tenant, who will not execute a final agreement without the variance approval.

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

The goal of having larger signage is to facilitate safe traffic flow into the parking lot. No existing signage exists for this tenant space on the frontage road.

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 Tenant did not create the issues/hardships.

Comments:

Notifications of the requested variance were mailed on September 19, 2016 to twelve (12) adjacent property owners, which own property within 200 feet of the Harbor Freight site. One (1) comment has been received in favor of the request, at the time of this report.

Recommended Action:

Staff recommends approval of waiver "Variance" of wall signage, because this serves as the primary signage for this business. No pole/ pylon signage currently exists for this tenant space. To have pole/ pylon signage, the existing signage must be substantially changed.

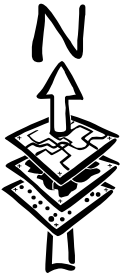
City Contact:

Melissa M. McCollum, AICP, LEED AP, Director Planning and Development Department


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



Property Location Map for 441 Highway 71 West



Legend

 441 Highway 71 West

HWY 71/BASTROP, LTD

8525 Ferndale Road, Suite 208

Dallas, Texas 75238

September 12, 2016

Board of Adjustment
City of Bastrop
1311 Chestnut Street
Bastrop, TX 78602

Re: Harbor Freight Tools
441 Highway 71 West
Bastrop, TX

Dear Board of Adjustment:

We respectfully request approval of a sign variance for Harbor Freight Tools at the above referenced location. Harbor Freight Tools has entered into an agreement to lease the space however can not execute the final agreement until the signage confirmed.

The setback of the property from the highway is so extensive that the current allowable code requirements of one (1) square foot of signage for every linear foot of building frontage is not reasonable. The signage will be illegible and will cause the residents of the City of Bastrop undue hardship when they are looking to locate the new business. Our goal is to simply ease traffic by making the new tenant visible and provide a safe flow into the parking lot.

By granting approval of the variance, it will not have any negative impacts on any of the surrounding properties. Also, it will be in harmony with the general purpose and intent of the Zoning Code and will not be injurious to the neighborhood or detrimental to the public welfare.

We as the property owner are looking forward to having Harbor Freight Tools join our center and bring additional business to the surrounding tenants and the City of Bastrop. We fully support and respectfully request approval of the sign variance request.

Sincerely,

HWY 71/BASTROP, LTD.

By: MLB Realty, Inc., its General Partner

By: 
Matt Bandy, Vice President

**NOTICE OF PUBLIC HEARING
BASTROP MUNICIPAL SIGN REVIEW BOARD**

Dear Property Owner:

The Bastrop Municipal Sign Review Board will conduct a public hearing in the City Council Chambers, 1311 Chestnut Street, Bastrop, Texas on Wednesday, October 5, 2016 at 6:00 p.m. to consider the following variance request to section:

Section 3.20.016

- (D) Business
 - (c) Ratio of 1 square foot per linear foot of primary façade for buildings or tenant spaces with greater than 75 linear feet of primary façade.

The variance request is to allow a wall sign to be approximately 293 square feet where 95 square feet is allowed for the tenant property.

The Applicant is: Atlas Sign Industries

Property Location: 441 Highway 71 West, Located West of Loop 150 and East of Hasler Blvd

Legal Description: Bastrop West Commercial Section 1, Block A, Lot 2 being +/- 5.8467 acres

PLEASE SEE ATTACHED SITE PLAN/LOCATION AND LETTER FROM APPLICANT

As a property owner within 200' of the above referenced property, you are being notified of the public hearing and invited to attend to express your opinion at the meeting or in writing by completing the form below. Written comments, either in support or opposition to this request, must be submitted to the Planning Department prior to the October 5, 2016 meeting at 1311 Chestnut Street, P.O. Box 427, Bastrop, Texas 78602, Fax (512) 332-8849 or call the Planning Department at (512) 332-8840.

X
X **PROPERTY OWNER'S RESPONSE** X
X

As a property owner within 200':

(Please check one)

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

RECEIVED

SEP 29 2016

Property Owner Name: CLASSIC BANK
Property Address: 493 TX - 71, BASTROP, TEXAS
Mailing Address: BOX 835, CAMERON, TEXAS 76520

By LD

Property Owner's Signature: Richard E. Willing J
Comments: (Optional)

Please reply to: Planning and Development Department
City of Bastrop
P.O. Box 427
Bastrop, Texas 78602

Re: Variance to wall sign allowable square feet (Mailed 9/19/16)

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

GRANTING WAIVER “VARIANCE”

WHEREAS, Atlas Sign Industries, on behalf of Hwy 71 Bastrop LTD. (“Applicant”) of Bastrop, Texas, the owner of the property legally described as being approximately 5.8467 acres located West of Loop 150 and East of Hasler Blvd within Bastrop West Commercial Section 1, Block A, Lot 2, at 441 Highway 71 West. 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 to allow a wall sign area be approximately 293 square feet where 95 square feet is the maximum allowed for the property located at 441 Highway 71 located West of Loop 150 and East of Hasler Blvd within Bastrop West Commercial Section 1, Block A, Lot 2 being +/- 5.8467 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 October 5, 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 5.8467 acres located West of Loop 150 and East of Hasler Blvd within Bastrop West Commercial Section 1, Block A, Lot 2, at 441 Highway 71 West, 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, 293 square foot wall sign will make sure that the sign is legible and will help patrons locate the new business without undue hardship.</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, the buildings are set 430 feet back from the traveling roadway.</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>The Owner is requesting this on behalf of the prospective new tenant, who will not execute a final agreement without the variance approval.</i></p>
X	<p>4. Granting the variance would not be detrimental to the public health, safety or welfare; and</p> <p><i>The goal of having larger signage is to facilitate safe traffic flow into the parking lot. No existing signage exists for this tenant space on the frontage road.</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 Tenant 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. Alyssa Halle-Schramm	_____
C. Herb Goldsmith	_____
D. Bob Rogers	_____
E. Matthew Lassen	_____

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 October 5, 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 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 October 5, 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, Atlas Sign Industries, on behalf of Hwy 71 Bastrop LTD. (“Applicant”) of Bastrop, Texas, the owner of the property legally described as being approximately 5.8467 acres located West of Loop 150 and East of Hasler Blvd within Bastrop West Commercial Section 1, Block A, Lot 2, at 441 Highway 71 West. The subject property is in the City of Bastrop, Bastrop County, Texas (“Property”); and

WHEREAS, said Property is zoned PP-PD – Pecan Park Planned Development 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 Central Business sign category, in accordance with Section 3.20.022; and

WHEREAS, Applicant desires a variance be granted as follows:

Section 3.20.016 to allow a wall sign area be approximately 293 square feet where 95 square feet is the maximum allowed for the property located at 441 Highway 71 located West of Loop 150 and East of Hasler Blvd within Bastrop West Commercial Section 1, Block A, Lot 2 being +/- 5.8467 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 October 5, 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 5.8467 acres located West of Loop 150 and East of Hasler Blvd within Bastrop West Commercial Section 1, Block A, Lot 2, at 441 Highway 71 West, 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. Alyssa Halle-Schramm _____
- C. Herb Goldsmith _____
- D. Bob Rogers _____
- E. Matthew Lassen _____

- 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 granted on October 5, 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 denying a variance taken by the Municipal Sign Review Board on October 5, 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__