



"FIND YOUR FUTURE IN FULSHEAR"

6611 W. CROSS CREEK BEND LANE ~ FULSHEAR, TEXAS 77441

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MEMBER- BRYAN THOMAS
MEMBER-KAYE KAHLILCH

ZONING BOARD OF ADJUSTMENT:
MEMBER- CHRISTOPHER LUBEROFF
MEMBER- PAT MOLLERE

MEMBER- ANGELA PETERS

CITY MANAGER: Jack Harper

STAFF:
CITY SECRETARY: Mariela Rodriguez

CITY ATTORNEY: Byron Brown

ZONING BOARD OF ADJUSTMENT MEETING MINUTES SEPTEMBER 21, 2023

1. CALL TO ORDER

This meeting of the Zoning Board of Adjustment was called to order by Chairman Thomas at 10:00 A.M. on Thursday, September 21, 2023, at the City of Fulshear Municipal Complex, 6611 W. Cross Creek Bend Ln., Fulshear, Texas 77441.

2. QUORUM

A quorum was present.

Members Present:

Bryan Thomas

Pat Mollere

Kaye Kahlich

Angela Peters

Christopher Luberoff

City Staff:

Katie Lewis

Mariela Rodriguez

Rodrigo Rodriguez

Byron Brown

Zach Goodlander @ 10:20 A.M.
Carlos Barcenas
Josh Brothers
Mariah Gallegos
Cliff Brouhard
Sharon Valiante @ 10:27A.M.

Others Present:

12 people who did not sign in.

3. CITIZEN COMMENTS

There were no citizen comments.

4. CONSIDERATION AND POSSIBLE ACTION TO APPROVE MINUTES FROM MEETING HELD ON JUNE 1, 2023.

A motion was made by ZBA member Peters to approve minutes from the meeting held on June 1, 2023. It was seconded by ZBA member Kahlich. The motion was carried by the following vote:

Ayes: Peters, Kahlich, Mollere, Luberoff, Thomas

Nays:

Abstain:

Absent:

Motion Passed

5. VARIANCE REQUEST BY CHRISTOPHER LUBEROFF/6102 PEPPER TRAIL LANE

A. Call Hearing to Order

Chairman Thomas opened the hearing at 10:02 A.M.

Zoning Board of Adjustment Member Christopher Luberoff stepped down at 10:02 A.M.

Byron Brown clarified to the board that four (4) board members are needed to pass the variance request.

B. The City of Fulshear Zoning Board of Adjustment will hold a public hearing on September 21, 2023, at 10 a.m. at the City of Fulshear Municipal Complex, 6611 W. Cross Creek Bend Lane, Fulshear, Texas 77441 to hear the application of Christopher Luberoff, requesting a variance to Article II: Zoning Districts and Land Uses, Division II-2 Zoning Districts, Sec 28-2-8 Semi-Urban Residential, Table 28-2-8-1 of the Fulshear Coordinated Development Ordinance. The subject

property is located within Creekside at Cross Creek Ranch Sec 10, Block 2, Lot 5 Fort Bend County, Texas and more precisely located at 6102 Pepper Trail Lane, Fulshear, Texas 77441. The application may be inspected at the Planning Department during regular business hours. Interested parties may appear at the public hearing and be heard with respect to the application. For more information regarding this request contact Rodrigo Rodriguez, City of Fulshear, 281-346-8860.

C. Applicant Presentation

Ryan Ford spoke on behalf of homeowner Christopher Luberoff.

He stated they are asking for a variance for the 5 ft. encroachment on Mr. Luberoff's property. They didn't realize the fireplace was built on the 5ft. encroachment until after the city inspector inspected the fireplace. They were told by the Building Official at the time to reach out to the Fort Bend County Fire Marshal. The fire marshal requested a spark protector be added at the top of the fireplace.

D. Staff Report

Josh Brothers stated the Fort Bend County Fire Marshal approved the plans once the revision was made to the design. City staff recommends this variance for approval.

E. Persons wishing to speak for or against the proposed request

Joel Patterson, Fulshear resident on Silver Thistle Lane stated the city needs to be consistent with permitting and residents need to know what they're doing before they do it.

Abhi Utturkar, Fulshear resident on Wimberly Briar Lane mentioned how we can stop this from becoming a precedent and being consistent in the future.

F. Staff / Board / Applicant discussion

The board asked the applicant if they received approval from the HOA. They did not speak to the HOA but did state the neighbor verbally told them they were ok with the construction.

Joel Patterson spoke of his personal experiences with his neighbors and the HOA.

Byron Brown answered questions from the board.

Rodrigo Rodriguez stated the city staff was only concerned with the fireplace being built over the build line, was fire safety. If the Fire Marshal had no issues, then it is ok with staff.

Josh Brothers spoke of the fees related to doing work without a permit.

City Staff answered questions from the board.

G. Adjournment of Hearing

Chairman Thomas closed the hearing at 10:28 A.M.

**6. CONSIDERATION AND POSSIBLE ACTION ON VARIANCE REQUEST
BY CHRISTOPHER LUBEROFF/6102 PEPPER TRAIL LANE**

A motion was made by ZBA member Kahlich to deny the variance request.

Motion failed due to lack of second.

A motion was made by ZBA member Mollere to approve the variance request with the condition to have HOA approval, if applicable. It was seconded by ZBA member Kahlich.

The board asked questions to city staff.

The motion was carried by the following vote:

Ayes: Mollere, Peters, Thomas

Nays: Kahlich

Abstain: Luberoff

Absent:

Motion Failed

A motion was made by ZBA Member Kahlich to amend ZBA member Mollere's motion to grant approval, pending approval of the HOA and the board recommends the language be given to city council to look at amending the CDO so this doesn't happen again in the future.

Byron Brown stated this is not a correct amendment to the motion.

ZBA Member Kahlich withdrew her motion.

There was no more decision and the board returned to the original motion to vote.

A motion was made by ZBA member Kahlich to deny the variance request.

Motion failed due to lack of second.

Byron stated there is no action to be taken on this variance request.

ZBA Member Christopher Luberoff took his seat at the dais at 10:38 A.M.

7. VARIANCE REQUEST BY GINEVRA FONT/28840 FM 1093 ROAD

A. Call Hearing to Order

Chairman Thomas opened the hearing at 10:38 A.M.

B. The City of Fulshear Zoning Board of Adjustment will hold a public hearing on September 21, 2023, at 10 a.m. at the City of Fulshear Municipal Complex, 6611 W. Cross Creek Bend Lane, Fulshear, Texas 77441 to hear the application of Ginevra Font, requesting a variance to Article III: Site Development, Division III-3: Buffering, Landscaping, and Screening, Sec 28-3-25(C)(3) Parking Lot Screening of the Fulshear Coordinated Development Ordinance. The subject 1.880-acre tract is located within the Enoch Latham Jr. Survey, A-50 City of Fulshear Fort Bend County, Texas and more precisely located at 28840 FM 1093 Road, Fulshear, Texas 77441. The application may be inspected at the Planning Department during regular business hours. Interested parties may appear at the public hearing and be heard with respect to the application. For more information regarding this request contact Rodrigo Rodriguez, City of Fulshear, 281-346-8860.

C. Applicant Presentation

Ginevra Font of Font Design stated they are currently in phase II of their project. This is the same issue she had before with phase I.

She is asking for a variance to waive the requirement for street trees along FM 1093 due to an existing utility easement.

D. Staff Report

Josh Brothers stated this request is recommended for approval.

E. Persons wishing to speak for or against the proposed request

There were no comments.

F. Staff / Board / Applicant discussion

There were no comments.

G. Adjournment of Hearing

Chairman Thomas closed the hearing at 10:42 A.M.

8. CONSIDERATION AND POSSIBLE ACTION ON VARIANCE REQUEST BY GINEVRA FONT/28840 FM 1093 ROAD

A motion was made by ZBA member Kahlich to approve the variance request. It was seconded by ZBA member Mollere. The motion was carried by the following vote:

Ayes: Kahlich, Mollere, Peters, Thomas, Luberoff

Nays:

Abstain:

Absent:

9. VARIANCE REQUEST BY PATRICK SOWINSKI/THRIVE CHURCH

A. Call Hearing to Order

Chairman Thomas opened the hearing at 10:43 A.M.

B. The City of Fulshear Zoning Board of Adjustment will hold a public hearing on September 21, 2023, at 10 a.m. at the City of Fulshear Municipal Complex, 6611 W. Cross Creek Bend Lane, Fulshear, Texas 77441 to hear the application of Patrick Sowinski, requesting a variance to Article II: Zoning Districts and Land Uses, Division II-2 Zoning Districts, Sec 28-2-14 General Commercial, Table 28-2-14-1 and Table 28-2-14-2 of the Fulshear Coordinated Development Ordinance. The approximately 6-acre tract of land is generally located along Wallis Street and within the Thrive Church Fulshear Subdivision, just south of the Texana Café located at 7440 FM 359 Road, Fulshear, Texas 77441. The application may be inspected at the Planning Department during regular business hours. Interested parties may appear at the public hearing and be heard with respect to the application. For more information regarding this request contact Rodrigo Rodriguez, City of Fulshear, 281-346-8860.

C. Applicant Presentation

Patrick Sowinski with Kimley-Horn spoke on behalf of Thrive Church.

He stated they are requesting two (2) parking variances consisting of:

- 1. Proposed parking within the 15-foot landscape set back along Wallis St.*
- 2. Proposed parking to exceed the number of spaces allowed by the general commercial zoning.*

The current proposed landscape plan includes a combination of shrubs, trees, and masonry walls in between parking stalls along Walls St. to provide headlight screening.

He gave examples of other businesses along FM 359 that show similar parking stalls encroaching 15 feet of the street right of way.

He stated if these requests are not approved, there will not be enough parking for the church congregation and events.

Thrive Church has received no objection letters from the Thrive Church cemetery to the North of the property as well as to the West of property that is zoned for Downtown District use.

D. Staff Report

Josh Brothers mentioned Thrive Church dedicated extra right of way to the City for the expansion of Wallis St.

Per Josh Brothers, staff recommends approval with a condition shared parking be allowed for neighboring properties for outside of the church's normal operating hours. This would encourage development in that area.

E. Persons wishing to speak for or against the proposed request

Josh Cullen, Pastor of Thrive Church stated they want to continue to host community wide events, for example the Scarecrow Festival

Joel Patterson, Mayor Pro-Tem is excited for the opportunity for Thrive Church to build their new location and is in favor of this request.

F. Staff / Board / Applicant discussion

City staff answered questions from the board.

Patrick Sowinski showed the board the landscaping plan.

Josh Cullen mentioned every parking space is critically important.

G. Adjournment of Hearing

Chairman Thomas closed the hearing at 10:59 A.M.

10. CONSIDERATION AND POSSIBLE ACTION ON VARIANCE REQUEST BY PATRICK SOWINSKI/THRIVE CHURCH

Byron Brown clarified there doesn't need to be two (2) motions if they are mentioned together or separately.

A motion was made by ZBA member Kahlich to approve both variance requests by Thrive Church for the larger number of spaces and the spaces that encroach on the 15-foot set back. It was seconded by ZBA member Luberoff.

ZBA members asked questions to city staff.

A motion to amend was made by ZBA member Kahlich to add the approval be conditioned upon the landscape plan that complies with the city code. It was seconded by ZBA member Mollere. The motion to amend was carried by the following vote:

Ayes: Kahlich, Mollere, Peters, Thomas, Luberoff

Nays:

Abstain:

Absent:

Motion Passed

City staff answered questions from the board.

A motion to amend was made by ZBA member Mollere to add that the approval be conditional upon the parking spaces within the site be made available to the general public when not needed by the church. It was seconded by ZBA member Kahlich. The motion to amend was carried by the following vote:

Ayes: Kahlich, Mollere, Peters, Thomas, Luberoff

Nays:

Abstain:

Absent:

Motion Passed

11. ADJOURNMENT

A motion was made by ZBA member Kahlich to adjourn. It was seconded by ZBA member Mollere. The motion was carried by the following vote:

Ayes: Kahlich, Mollere, Peters, Thomas, Luberoff

Nays:

Abstain:

Absent:

Motion Passed

Chairman Thomas adjourned the meeting at 11:05 A.M.