



"FIND YOUR FUTURE IN FULSHEAR"

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

PHONE: 281-346-1796 ~ FAX: 281-346-2556

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CHAIR- BRYAN THOMAS
CO-CHAIR-KAYE KAHLICH

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

MEMBER- ANGELA PETERS

ACTING CITY MANAGER: Zach Goodlander

STAFF:
CITY SECRETARY: Mariela Rodriguez CITY ATTORNEY: Byron Brown

ZONING BOARD OF ADJUSTMENT MEETING MINUTES JULY 18, 2024

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, July 18, 2024, 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

Members Absent:

Christopher Luberoff

City Staff:

Mariela Rodriguez

Rodrigo Rodriguez

Byron Brown

*Josh Brothers
Kim Kopecky
Sharon Valiante
Mariah Gallegos*

Others Present:

*Joyce Owens
Bill Clifford
Nancy Mills
Horo Etuks
Guy Davis
Susan Davis
Bill Loden
Sarah B. Johnson
Cherie Kane
Jim Kane
Jenna Battenfield*

9 others who did not sign in

3. CITIZEN COMMENTS

No one wished to speak.

4. CONSIDERATION AND POSSIBLE ACTION TO APPROVE MINUTES FROM THE MEETING HELD ON FEBRUARY 15, 2024

A motion was made by ZBA member Mollere to approve minutes from the meeting held on February 15, 2024. It was seconded by ZBA member Kahlich. The motion was carried by the following vote:

Ayes: Thomas, Mollere, Kahlich, Peters

Nays:

Abstain:

Absent: Luberoff

Motion Passed

5. VARIANCE REQUEST BY TEXAS PETROLEUM GROUP, LLC/29030 FM 1093 RD

A. Call Hearing to Order

Chairman Thomas opened the hearing at 10:03 A.M.

B. The City of Fulshear Zoning Board of Adjustment will hold a public hearing on July 18, 2024; The public hearing will take place 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 Texas Petroleum Group, LLC, requesting a variance to Article III: Site Development, Division III-3: Buffering, Landscaping, and Screening, Sec 28-3-25(D) Street Trees Required of the Fulshear Coordinated Development Ordinance. The subject 3.1233-acre tract is located within the 0050 E Latham, ACRES 3.1233, Radio Tower Site and more precisely located at 29030 FM 1093 Road, Richmond, Texas 77406. 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

Fernando Sanchez with Interplan Architects represented the applicant.

He stated the reason for the variance is due to a 20 ft. wide water line easement, and the proposed trees will interfere with the 16” underground waterline.

D. Staff Report

Josh Brothers explained that the applicant is correct about the interference with the waterline and city staff recommends approval of the variance.

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

No one wished to speak for or against the proposed request.

F. Staff / Board / Applicant discussion

Co-Chair Kahlich requested that more grass and ornamental landscaping be added.

G. Adjournment of Hearing

Chairman Thomas closed the hearing at 10:08 A.M.

6. CONSIDERATION AND POSSIBLE ACTION ON VARIANCE REQUEST BY TEXAS PETROLEUM GROUP, LLC/29030 FM 1093 RD

A motion was made by Co-Chair Kahlich to approve the variance request with the condition to include a berm on the side of the lot fronting FM 1093 and include ornamental landscaping. It was seconded by ZBA member Peters. The motion was carried by the following vote:

Ayes: Thomas, Mollere, Kahlich, Peters

Nays:

Abstain:

Absent: Luberoff

Motion Passed

7. VARIANCE REQUEST BY WHATABURGER RESTAURANTS LLC/29639 FM 1093 RD

A. Call Hearing to Order

Chairman Thomas opened the hearing at 10:09 A.M.

B. The City of Fulshear Zoning Board of Adjustment will hold a public hearing on July 18, 2024; The public hearing will take place 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 Whataburger Restaurants LLC, requesting a variance to Article II: Zoning Districts and Land Uses, Division II-2 Zoning Districts, Sec 28-2-14 General Commercial District, Table 28-2-14-1 Dimensional Standards of the Fulshear Coordinated Development Ordinance. The subject 3.1736-acre tract is located within 0050 E Latham, Tract 18 (Pt), ACRES 3.1736 and more precisely located at 29639 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

Kevin Due a civil engineer with ALJ Lindsey civil engineer stated there is currently a 25ft. parking set back. The requestor is asking for a 10ft. set back. They plan to add plenty of landscaping along the frontage to allow for extra screening ensuring there will be no issues with traffic.

D. Staff Report

Josh Brothers mentioned city staff met with Whataburger. City staff had no issues with the request if TXDOT was aware and approved. The developer stated TXDOT was aware.

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

Sarah Johnson Fulshear resident on Lea Lane requests the board to deny the variance request. Reducing the setbacks to 10ft. will decrease the safety for people walking on the sidewalk. Also, the proposed landscaping trees will only grow to 8ft. high and is not tall enough to cover noise from the future tollway.

Bill Clifford Fulshear resident on Fulshear Run Trace stated that setting a standard to reduce setbacks at a prominent location sets a precedent and is unreasonable. Also, there is no advantage to the Fulshear residents to grant the variance.

John Dowdall Fulshear resident on Bois D 'Arc agrees with Sarah Johnson and Bill Clifford's comments. He is concerned with the extra lighting, loitering, traffic and crime.

Guy Davis Fulshear resident of Fulshear Run states this is a terrible location for any business. The ingress and egress on Bois D 'Arc will cause issues during the school year with the junior high and high school kids.

Jenna Battinfield Fulshear Resident in Fulshear Run spoke of the CDO sections 32-35 and drainage concerns.

F. Staff / Board / Applicant discussion

Chairman Thomas stated ZBA doesn't decide what commercial goes on the property

Co-Chair Kahlich thanked the residents for coming and speaking about this variance request. She agrees with all the resident comments.

Chairman Thomas asked the applicant if the variance request is denied how will it affect the parking plan.

The applicant responded If denied, the parking will fall below the general standards that Whataburger likes to see. Also, it would reduce the parking spots by fourteen (14).

Board member Mollere doesn't feel the variance will benefit the residents and feels if approved it will set a precedence.

G. Adjournment of Hearing

Chairman Thomas closed the hearing at 10:26 A.M.

8. CONSIDERATION AND POSSIBLE ACTION ON VARIANCE REQUEST BY WHATABURGER RESTAURANTS LLC/29639 FM 1093 RD

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

Ayes: Mollere, Kahlich, Peters

Nays: Thomas

Abstain:

Absent: Luberoff

Motion Failed

9. VARIANCE REQUEST BY WHATABURGER RESTAURANTS LLC/29639 FM 1093 RD

A. Call Hearing to Order

Chairman Thomas opened the hearing at 10:27A.M.

B. The City of Fulshear Zoning Board of Adjustment will hold a public hearing on July 18, 2024; The public hearing will take place 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 Whataburger Restaurants LLC, requesting a variance to Article II: Zoning Districts and Land Uses, Division II-2 Zoning Districts, Sec 28-2-14 General Commercial District, Table 28-2-14-2 Permitted Uses and Minimum Off-Street Parking Spaces of the Fulshear Coordinated Development Ordinance. The subject 3.1736-acre tract is located within 0050 E Latham, Tract 18 (Pt), ACRES 3.1736 and more precisely located at 29639 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

The applicant is requesting forty-two (42) parking spaces. Since the previous variance was denied, they are proposing to reduce the amount of parking spaces to twenty-eight (28) which is six (6) over the allowed twenty-two (22) for the project.

With previous discussions with city staff, they are willing to install permeable pavers on eight (8) of the parking spaces which the developer has no oppositions to.

They also plan on installing onsite drainage systems to decrease the amount of flow to the right of way.

D. Staff Report

Josh Brothers stated city staff recommends approval with the condition to increase the standard on drainage, sod and road cuts if the benefits are not there, he requests denial of the variance.

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

Sarah Johnson Fulshear resident asks the board to deny the request as the increased parking spaces will result in loitering, tailgating, an increase in crime and traffic.

Bill Clifford Fulshear resident states Whataburger should've been clear about the requirements to build on this location and there is no benefits to residents to add additional parking spaces.

Susan Davis Fulshear Run resident spoke regarding an additional traffic study that was to be done by the applicant.

Susan Box Fulshear resident spoke on the safety of children walking to and from Fulshear Run and the schools.

Jenna Battenfield Fulshear resident mentioned the increased issues with the traffic flow and the safety of the children walking.

F. Staff / Board / Applicant discussion

The applicant stated the standard spacing requirements required by TXDOT will not allow an entrance off FM 1093 as the entrance is close proximity to Bois D 'Arc.

Board Member Peters thanked the speakers and asked everyone to focus on the request.

Byron Brown asked if the board approves with conditions to be specific in the motion for the decision letter.

Ron the Director of Government and Legal Affairs for Whataburger stated they are proud to serve the community and are willing to do whatever it takes to help the residents and wants to partner with them.

Josh Brothers stated the minimum of applying the downtown district standards, additional landscaping, cistern behind the building, exterior/façade unique to Fulshear, cross shared access with adjacent owner.

Byron Brown answered questions from the board.

Joel Patterson Fulshear resident spoke on setting precedents on future development.

G. Adjournment of Hearing

Chairman Thomas closed the hearing at 10:57A.M.

10. CONSIDERATION AND POSSIBLE ACTION ON VARIANCE REQUEST BY WHATABURGER RESTAURANTS LLC/29639 FM 1093 RD

Byron answered questions from the board

A motion was made by ZBA member Kahlich to approve the variance request from 22 parking spaces to 28 parking with the condition the building be constructed to our downtown district standards, and it includes low impact development of their choice.

Motion fails due to a lack of a second.

A motion was made by ZBA member Peters to approve the 28 parking spaces with 8 parking spaces being permeable. The motion was seconded by ZBA member Mollere.

The motion was carried by the following vote:

Ayes: Mollere, Thomas, Peters

Nays: Kahlich

Abstain:

Absent: Luberoff

Motion Fails due to a lack of a super majority.

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

Ayes: Mollere, Thomas, Peters, Kahlich

Nays:

Abstain:

Absent: Luberoff

Motion Passed

11. VARIANCE REQUEST BY FLITE SIGNS/27250 FM 1093 RD

Chairman Thomas stated the applicant failed to publish the notices required by law The item was tabled.

A. Call Hearing to Order

B. The City of Fulshear Zoning Board of Adjustment will hold a public hearing on July 18, 2024; The public hearing will take place 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 Flite Signs, requesting a variance to Article III: Site Development, Division III-4: Signs, Sec 28-3-33 Signs Requiring a Permit, Table 28-3-33-1 of the Fulshear Coordinated Development Ordinance. The subject 1.355-acre tract is located within the 0274 R H KUYKENDALL, BLOCK 1, ACRES 1.355, Landmark Sales Tract, Unrestricted Reserve "A", Part in Abstract 0421 and more precisely located at 27250 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

D. Staff Report

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

F. Staff / Board / Applicant discussion

G. Adjournment of Hearing

12. CONSIDERATION AND POSSIBLE ACTION ON VARIANCE REQUEST BY FLITE SIGNS/27250 FM 1093 RD

Chairman Thomas stated the applicant failed to publish the notices required by law. The item was tabled.

13. VARIANCE REQUEST BY OWENS MANAGEMENT SYSTEMS LLC/6830 BOIS D'ARC LANE

A. Call Hearing to Order

Chairman Thomas opened the hearing at 11:11 A.M.

B. The City of Fulshear Zoning Board of Adjustment will hold a public hearing on July 18, 2024; The public hearing will take place 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 Owens Management Systems LLC, requesting a variance to Article II: Zoning Districts and Land Uses, Division II-2: Zoning Districts, Sec 28-2-5: Estate Residential, Table 28-2-5-1 Dimensional Standards of the Fulshear Coordinated Development Ordinance. The subject 2.66-acre tract is located within the 0075 RAND AND PENN, ACRES 2.66, Tract 21.6 and more precisely located at 6830 Bois D' Arc Lane, Richmond, Texas 77406. 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

Joy with Owens Management Systems spoke on behalf of the applicant.

The property is currently zoned Estate Residential, and the applicant is proposing to subdivide the property into two (2) lots for single family homes.

The proposed subdivision will preserve a low-density type of development that already exists in the neighborhood with lot sizes that range from 1-2 acres.

D. Staff Report

Josh stated City Staff recommends denying the variance request based on two items:

- 1. Zoning minimal two (2) acres*
- 2. No hardship was established to subdivide the property*

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

John Dowdall on Bois D 'Arc is against the request as he feels it will give an unwanted precedence and the applicant should adhere to the CDO. Also, the board needs to ask what the proven hardship is.

Susan Box Fulshear resident off Terry lane stated there is a reason why the minimum lot sizes are two (2) acres and this is not the look they are looking for.

Bill Loden Fulshear resident on Lea Lane spoke on behalf of Mr. and Mrs. Skidmore who live next door to the property. He went over the handout that was given to the board members.

Sarah Johnson on Lea Lane agrees with the other comments and feels it will set a precedence to other developers. She feels the request does not show a hardship and requests the board to deny.

Kathy Ward Fulshear resident in the Bois D' Arc area reiterated that if the City starts subdividing it will attract more variance requests. By building more homes it could impact the water table for those on water wells and more concrete could affect the drainage and cause more flooding.

F. Staff / Board / Applicant discussion

The ZBA board and Joy spoke regarding the CDO requirements.

Joy stated they did not receive any calls regarding the development. She would've liked a heads up on the concerns the city received from residents.

G. Adjournment of Hearing

Chairman Thomas closed the hearing at 11:30A.M.

14. CONSIDERATION AND POSSIBLE ACTION ON VARIANCE REQUEST BY OWENS MANAGEMENT SYSTEMS LLC/6830 BOIS D' ARC LANE

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

Ayes: Thomas, Mollere, Kahlich, Peters

Nays:

Abstain:

Absent: Luberoff

Motion Passed

Chairman Thomas stated that ZBA member Pat Mollere is retiring from the board. He thanked her for serving on the board.

He mentioned Pat Mollere will be replaced by Jessica Piadade.

15. ADJOURNMENT

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

Ayes: Thomas, Mollere, Kahlich, Peters

Nays:

Abstain:

Absent: Luberoff

Motion Passed

Chairman Thomas adjourned the meeting at 11:31A.M.