



# Wylie Zoning Board of Adjustments

## AGENDA REPORT

Department: Planning  
Prepared By: Kevin Molina

Item Number: 1

### Subject

Hold a Public Hearing to consider and act upon a request by George Butler for a variance to Section 5.5.D of Subdivision Regulations Ordinance 2003-03 to allow for a retaining wall within a utility easement. Property located at 1332 Lake Trail Court. (ZBA 2024-01).

### Recommendation

Motion to approve or deny.

### Discussion

**OWNER: George Butler**

**APPLICANT: George Butler**

The applicant is requesting a variance to Section 5.5.D of Subdivision Regulations Ordinance 2003-03 to allow for a retaining wall within a utility easement. The proposed retaining wall is for erosion control. The property is located at 1332 Lake Trail Court.

The purpose of the Ordinance restricting structures within an easement is to keep utility easements clear. This allows space for repair and/or replacement of utility lines or pipes.

The applicant believes the variance request has merit for the following reasons:

- The side of the yard currently slopes, making it unusable for children to play. A retaining wall would allow for the applicant to level the yard, creating more play space.
- Over 3 and a half years since the property owner has lived in the house they have observed the yard slowly slipping from the house, causing the need for foundation work on the home.
- The applicant has verified that the only utilities within the easement are from Frontier Cable. Frontier Communications has given the property owner permission to dig within the easement with the stipulation that it would have to be by hand and not machinery.

Public comment forms were mailed to twenty-five (25) property owners within 200 feet of this request, as required by State Law. At the time of posting seven comment forms were returned in favor and none in opposition of the request.

**The Board shall not grant a variance to the development code which:**

- (1) Permits a land use not allowed in the zoning district in which the property is located; or
- (2) Is in the public right-of-way or on public property; or
- (3) Alters any definition of the development code; or
- (4) Is other than the minimum variance that will afford relief with the least modification possible to the requirements of the development code; or
- (5) Is based on physical conditions or circumstances of the property so general or recurring in nature as to reasonably make practicable the formulation of a general regulation to be adopted as an amendment to the development code; or
- (6) Is based exclusively on findings of personal or financial hardship.

**In order to grant a variance to the development code the Board shall find that all the following have been satisfied:**

- (1) That there are unique physical circumstances or conditions of the lot, or other exceptional physical condition particular to the affected property;
- (2) That because of these unique physical circumstances or conditions, the property cannot be reasonably developed or used in compliance with the provisions of the development code;
- (3) That due to such unique physical circumstances or conditions, the strict application of the development code would create a demonstrated hardship;
- (4) That the demonstrable hardship is not self-imposed;
- (5) That the variance if granted will not adversely affect the proposed development or use of adjacent property or neighborhood;
- (6) That the variance, if granted will not change the character of the zoning district in which the property is located;
- (7) That the variance, if granted is in keeping with the intent of the development code; and
- (8) That the variance, if granted, will not adversely affect the health, safety or welfare of the citizens of Wylie.