



# Wylie Zoning Board of Adjustments

## AGENDA REPORT

Department: Planning

Item Number: 2

Prepared By: Kevin Molina

### Subject

Hold a Public Hearing to consider and act upon a request by Daimie Mabrey for a variance to Section V.14-15 of Planned Development 2002-52 to allow for 3' side and rear setbacks in lieu of the required 5' side setback and rear setback of 10% of the lot depth. Property located at 1314 Spotted Owl Avenue. ZBA 2022-02

### Recommendation

Motion to approve, deny.

### Discussion

**OWNER: Daimie and Brad Mabrey**

**APPLICANT: Daimie Mabrey**

The applicant is requesting a variance to Section V.14-15 of the Bozman Farms Planned Development (PD 2002-52) to allow for 3' side and rear setbacks in lieu of the required 5' side setback and rear setback of 10% of the lot depth. The property is located at 1314 Spotted Owl Avenue. The purpose of this request is to allow for the construction of a patio cover that measures 19x17 (323sf). The requested setbacks match those of the current accessory structure allowances of the Zoning Ordinance.

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

- The 10% of the lot depth rear setback requirement found in the Planned Development is restrictive due to the corner lot's large shape.
- City Council adopted a Zoning Ordinance amendment in January of 2021 allowing for a 3' side and rear setback for accessory structures in December of 2020. Variances are still required for individual Planned Developments that are more restrictive.
- The Architectural Review Committee of the HOA for the Bozman Farms Subdivision has provided a statement stating that they have no opposition for the construction of the Patio Cover at the requested setbacks.

Public comment forms were mailed to twenty-four (24) property owners within 200 feet of this request, as required by State Law. At the time of posting five 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.