

# Wylie Zoning Board of Adjustments Regular Meeting

February 19, 2024 – 6:00 PM

Council Chambers - 300 Country Club Road, Building #100, Wylie, Texas 75098



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## CALL TO ORDER

### COMMENTS ON NON-AGENDA ITEMS

*Any member of the public may address Board regarding an item that is not listed on the Agenda. Members of the public must fill out a form prior to the meeting in order to speak. Board requests that comments be limited to three minutes for an individual, six minutes for a group. In addition, Board is not allowed to converse, deliberate or take action on any matter presented during citizen participation.*

### CONSENT AGENDA

*All matters listed under the Consent Agenda are considered to be routine by the Board and will be enacted by one motion. There will not be separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.*

A. Meeting Minutes from December 18, 2023

### REGULAR AGENDA

1. 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).

### WORK SESSION

### RECONVENE INTO REGULAR SESSION

### EXECUTIVE SESSION

### RECONVENE INTO OPEN SESSION

*Take any action as a result from Executive Session.*

### ADJOURNMENT

### CERTIFICATION

I certify that this Notice of Meeting was posted on February 16, 2024 at 5:00 p.m. on the outside bulletin board at Wylie City Hall, 300 Country Club Road, Building 100, Wylie, Texas, a place convenient and readily accessible to the public at all times.

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Stephanie Storm, City Secretary

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Date Notice Removed

The Wylie Municipal Complex is wheelchair accessible. Sign interpretation or other special assistance for disabled attendees must be requested 48 hours in advance by contacting the City Secretary's Office at 972.516.6020. Hearing impaired devices are available from the City Secretary prior to each meeting.

If during the course of the meeting covered by this notice, the Board should determine that a closed or executive meeting or session of the Board or a consultation with the attorney for the City should be held or is required, then such closed or executive meeting or session or consultation with attorney as authorized by the Texas Open Meetings Act, Texas Government Code § 551.001 et. seq., will be held by the Board at the date, hour and place given in this notice as the Board may conveniently meet in such closed or executive meeting or session or consult with the attorney for the City concerning any and all subjects and for any and all purposes permitted by the Act, including, but not limited to, the following sanctions and purposes:

Texas Government Code Section:

§ 551.071 – Private consultation with an attorney for the City.



# Zoning Board of Adjustment

## **AGENDA REPORT**

Department: Planning

Item: A

Prepared By: Gabby Fernandez

### **Subject**

Consider, and act upon, Minutes from the December 18, 2023 Regular Meeting.

### **Recommendation**

Motion to approve Item A as presented.

### **Discussion**

The minutes are attached for your consideration

# Wylie Zoning Board of Adjustments Regular Meeting

December 18, 2023 – 6:00 PM

Council Chambers - 300 Country Club Road, Building #100, Wylie, Texas 75098



## CALL TO ORDER

Chair Jennifer Grieser called the meeting to order at 6:00 p.m. Present were Chair Jennifer Grieser, Vice-Chair Harold Smith, Board Member Richard Covington, Board Member Aaron Lovelace, Alternate Board Member Michael Innella, Director of Community Services Jasen Haskins, Senior Planner Kevin Molina, Administrative Assistant Lillian Baker. Absent was Board Member Byron Betler.

## COMMENTS ON NON-AGENDA ITEMS

*Any member of the public may address Board regarding an item that is not listed on the Agenda. Members of the public must fill out a form prior to the meeting in order to speak. Board requests that comments be limited to three minutes for an individual, six minutes for a group. In addition, Board is not allowed to converse, deliberate or take action on any matter presented during citizen participation.*

None approached the Board.

## CONSENT AGENDA

*All matters listed under the Consent Agenda are considered to be routine by the Board and will be enacted by one motion. There will not be separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.*

A. Meeting Minutes from November 20, 2023 Regular Meeting

### Board Action on Consent Agenda

A motion was made by Vice-Chair Smith and seconded by Board Member Lovelace to approve the Consent Agenda as presented. A vote was taken and carried 5 – 0.

## REGULAR AGENDA

1. Hold a Public Hearing to consider and act upon a request by Kris Ramji for a variance to Section 443.1.f of Sign Ordinance 2014-44 to allow for two monument signs within a drainage and utility easement. Property located at 1804 & 1808 N State Highway 78. ZBA 2023-09

### Board Discussion on Regular Agenda

Senior Planner Molina presented an overview of the variance request. Eleven notices were mailed and one was received in favor. Vice-Chair Smith noted that the sign was consistent with what exists today, in the area. Senior Planner Molina stated that was correct and that as long as the sign was not obstructing visibility triangles there was no issue.

Chair Grieser opened a Public Hearing at 6:04 p.m. No one approached the Board and the Public Hearing was closed.

**Board Action on Regular Agenda**

A motion was made by Board Member Lovelace and seconded by Vice-Chair Smith to approve the Regular Agenda item as presented. A vote was taken and carried 4 – 1, with Board Member Innella voting in opposition.

**ADJOURNMENT**

A motion was made by Vice-Chair Smith and seconded by Board Member Covington to adjourn. A vote was taken and carried 5 – 0 . The meeting was adjourned at 6:07 p.m.

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Jennifer Grieser – Chair**ATTEST**

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Gabriella Fernandez - Secretary



# 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.



# Locator Map



ZONING BOARD OF ADJUSTMENT CASE:  
ZBA 2024-01

 SUBJECT property

0 0.1 0.2 0.3 Miles



Date: 1/31/2024





January 25, 2024

George and Beth Butler  
1332 Lake Trail Ct.  
Wylie, TX 75098

To: City of Wylie Building Department and Planning & Zoning Department

Dear Mr. Booth and Mr. Molina,

Recently I had the opportunity to meet you in person regarding my request to construct a flagstone retaining wall on my property in Bozman Farms Estates.

The wall would be placed along the side of my property where an existing fence is currently, and a new fence would be constructed on top of it. The wall would be roughly two feet high and the height of the fence on top of it would be constructed to match my neighbor's existing fence.

Per our previous discussion, the request would require a "Request for Variance" to move forward as I am on a corner lot and the proposed retaining wall lies in a utility easement.

I was encouraged by our in-person conversation about the multiple possible "work arounds" to be able to approve the request to construct this wall. At Mr. Molina's suggestion, I am submitting this letter and accompanying evidence to explain more about the request for possible approval from the review Committee.

**The reasons for the request to build this wall are as follows.** (Please see attached pictures as well.)

- **The side of our yard currently slopes dramatically, making it unusable** for play for our children. A small retaining wall would allow us to level the yard, creating much more play space.
- Over the 3 ½ years we have lived in this house **we have observed the yard slowly slipping away from the house, causing the need for foundation work on our home.** (Our house is at the bottom of the hill and we can only assume that fill dirt was used when our house was originally constructed.)
- **It would protect our investment in the property.** Over the past 3 years we made significant investments in the property to try and mitigate any movement of the home. **These include:** 1) installation of 18 foundation piers; 2) addition of gutters to push rain water away from the foundation; 3) installation of an underground French drain system throughout the property.
- **A flagstone retaining wall like the one we are proposing already exists in the same easement on a neighboring property.**

- **Such an upgrade would contribute toward retaining or improving the property values in both Bozman Farms Estates and the City of Wylie.**

As a part of the original request, our contractor had utility lines marked in our yard by calling 811. The lines were marked by a company called USIC (US Infrastructure Company). I reached out to this company and spoke with a representative on the phone. This person looked up my address while on the call, they confirmed the following: (Please also see attached pictures.)

- 1) They checked for Farmer's Electric (via Oncor). This was marked as "CR" or "Clear" meaning it is **NOT** in this easement.
- 2) They checked for CoServe Gas. This was marked as "CR" or "Clear" meaning it is **NOT** in this easement.
- 3) They checked for Charter (Spectrum) Communications. This was marked as "CR" or "Clear" meaning it is **NOT** in this easement.
- 4) They checked for Frontier Cable. **THIS IS THE ONLY** line that does lie in this easement and is marked with paint in the yard.

**I reached out to Frontier Communications and talked with their engineering department that is responsible for laying these lines.** They confirmed that there is not "standard" depth at which these lines are guaranteed to be buried. **They said it was fine to dig there but the digging should be done by hand.**

Per my in-person discussion with Mr. Molina, I was asked to reach out to the above listed companies to learn more about which utilities were buried in this easement, if any.

Frontier Cable is the only company with a line in this area.

I would be more than happy to sign an affidavit stating that if the Frontier Cable line is damaged then it would need to be repaired at my own expense.

I hope this information is helpful in your consideration of my Variance Request application. I would very much appreciate the opportunity to better secure my yard from unwanted ground movement, as well as to increase its usable play-space area for my children as well.

Thank you in advance for your consideration of this request.

Sincerely,



George Butler

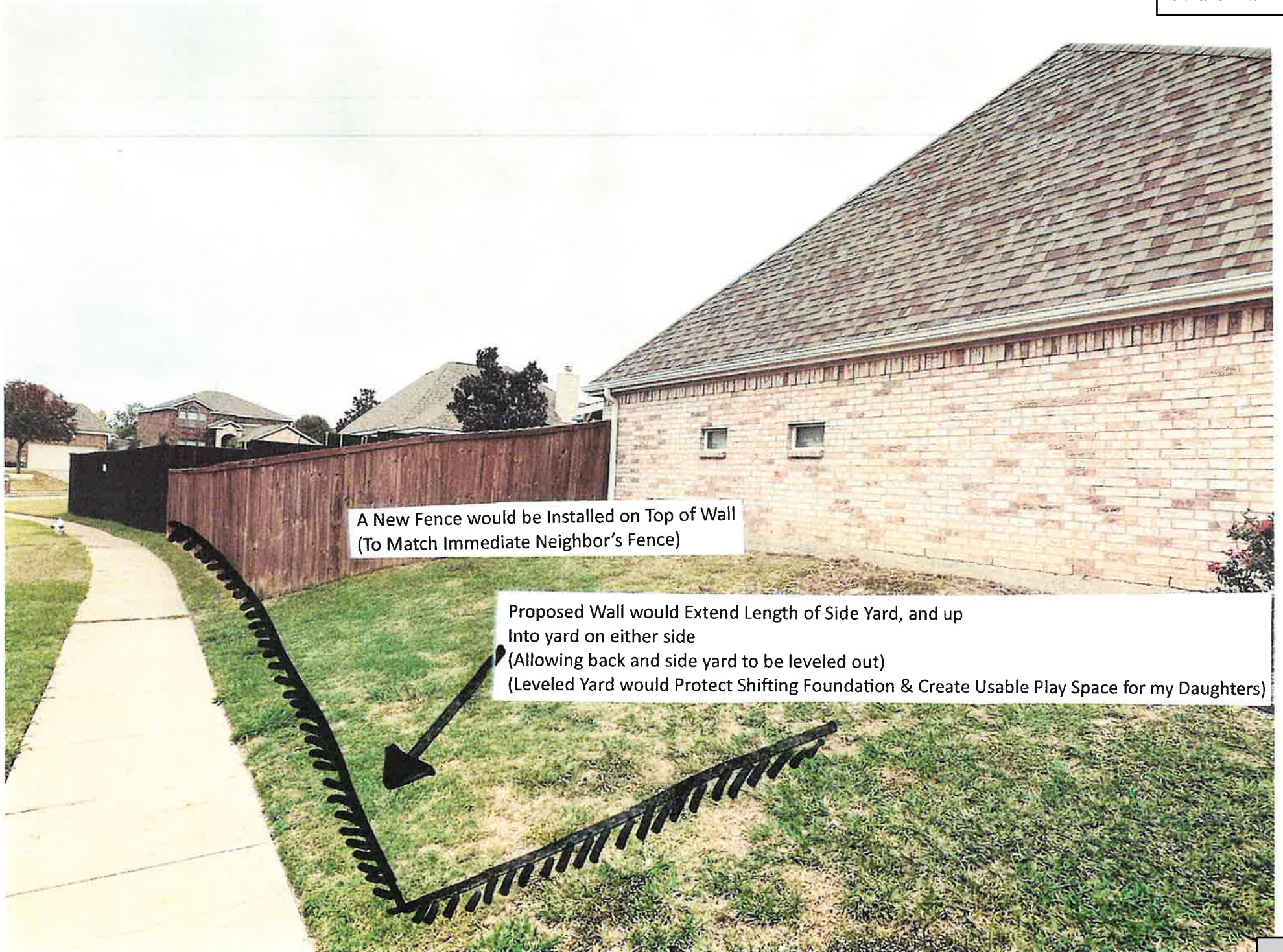


Existing Retaining Wall on Neighboring Property  
(Fewer than 2' tall)

Proposed Retaining Wall Here (w/ New Fence on Top)  
(Would match existing retaining wall on neighboring property)

My Property














Existing Retaining Wall on Neighboring Property



Difficult to see in photo:  
Angle of yard in shaded area is so steep it is unusable for play.  
Yard is also slowly slipping away.

Too Steep


Needs  
to be  
Levelled



Proposed Retaining Wall so Yard can be Levelled  
(New Fence on Top of Wall)

Shaded area so steep, it's unusable.





Replacement Fence would be board-on-board cedar to match  
Immediate neighbor's existing fence.



Oncor Electric

Frontier Electric

"CR" = "Clear" (Not in this easement)

"CR" = "Clear" (Not in this easement)





Spectrum

"CR" = "Clear" (Not in this easement)





CoServe Gas

"CR" = "Clear" (Not in this easement)



**ELECTRIC BURIED  
CABLE IN AREA**

APPROXIMATE LOCATION.  
HAND DIG TO LOCATE  
BEFORE MECHANICAL  
EQUIPMENT IS USED

**ONCOR**

YOU DIG INTO A BURIED ELECTRIC  
CABLE CALL 1-800-666-2614

**USIC**  
THE UNDERGROUND SERVICE INDUSTRY

TSN 307088













## Public Comment Form

**First Name \***

Miranda

**Middle Name**

**Last Name \***

Lankford

**Address \***

Street Address

1322 Taren Trail

Address Line 2

City

Wylie

State / Province / Region

TX

Postal / Zip Code

75098

**Case # \***

ZC2024-01 1332 Lake Trail Ct.

**Response \***

- ☒ I am FOR the requested zoning as explained on the public notice
- ☐ I am AGAINST the requested zoning as explained on the public

**Comments**

*I agree and understand that by signing the electronic signature, that it is the equivalent to my manual/handwritten signature.*

**Signature \***

A handwritten signature in black ink, appearing to read 'Miranda Lankford', on a light gray rectangular background.

**Date of Signature**

2/7/2024



## Public Comment Form

**First Name \***

Syed

**Middle Name**

**Last Name \***

Haq

**Address \***

Street Address

1407 Country Creek Trail

Address Line 2

City

Wylie

State / Province / Region

TX

Postal / Zip Code

75098

**Case # \***

ZC2024-01 1332 Lake Trail Ct.

**Response \***

- ☒ I am FOR the requested zoning as explained on the public notice  
☐ I am AGAINST the requested zoning as explained on the public

**Comments**

*I agree and understand that by signing the electronic signature, that it is the equivalent to my manual/handwritten signature.*

**Signature \***

A grey rectangular box containing a handwritten signature in black ink that reads 'Syed Haq'.

**Date of Signature**

2/7/2024



## Public Comment Form

**First Name \***

Clinton

**Middle Name**

**Last Name \***

Peppo

**Address \***

Street Address

1330 Lake Trail Ct.

Address Line 2

City

Wylie

State / Province / Region

TX

Postal / Zip Code

75098

**Case # \***

ZC2024-01 1332 Lake Trail Ct.

**Response \***

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**Comments**

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**Signature \***

A stylized electronic signature in black ink on a light gray background.

**Date of Signature**

2/7/2024



## Public Comment Form

**First Name \***

Gerry

**Middle Name**

**Last Name \***

Norris

**Address \***

Street Address

1331 Lake Trail

Address Line 2

City

Wylie

State / Province / Region

TX

Postal / Zip Code

75098

**Case # \***

ZC2024-01 1332 Lake Trail Ct.

**Response \***

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**Comments**

*I agree and understand that by signing the electronic signature, that it is the equivalent to my manual/handwritten signature.*

**Signature \***

A grey rectangular box containing a black electronic signature that appears to read 'Gerry Norris'.

**Date of Signature**

2/7/2024



## Public Comment Form

**First Name \***

Michael

**Middle Name**

Thomas

**Last Name \***

Podlucky

**Address \***

Street Address

1327 Taren Trail

Address Line 2

City

Wylie

State / Province / Region

TX

Postal / Zip Code

75098

**Case # \***

ZC2024-01 1332 Lake Trail Ct.

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**Comments**

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**Signature \***

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**Date of Signature**

2/7/2024





## Public Comment Form

**First Name \***

Joe

**Middle Name**

**Last Name \***

Fivekiller

**Address \***

Street Address

1325 Lake Trail Ct.

Address Line 2

City

Wylie

State / Province / Region

TX

Postal / Zip Code

75098

**Case # \***

ZC2024-01 1332 Lake Trail Ct.

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**Comments**

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**Signature \***

A stylized electronic signature in black ink, appearing to read 'JF', on a light gray rectangular background.

**Date of Signature**

2/7/2024



## Public Comment Form

**First Name \***

TU

**Middle Name**

**Last Name \***

NGUYEN

**Address \***

Street Address

1402 Country Creek Trl

Address Line 2

City

Wylie

State / Province / Region

TX

Postal / Zip Code

75098

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ZC2024-01 1332 Lake Trail Ct.

**Response \***

- ☒ I am FOR the requested zoning as explained on the public notice  
☐ I am AGAINST the requested zoning as explained on the public

**Comments**

Totally agree with the improvement

*I agree and understand that by signing the electronic signature, that it is the equivalent to my manual/handwritten signature.*

**Signature \***

TU Nguyen

**Date of Signature**

2/8/2024



## Public Comment Form

**First Name \***

Miranda

**Middle Name**

**Last Name \***

Lankford

**Address \***

Street Address

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Address Line 2

City

Wylie

State / Province / Region

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**Date of Signature**

2/7/2024



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2/7/2024



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**Date of Signature**

2/7/2024





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**Middle Name**

**Last Name \***

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**Address \***

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Address Line 2

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2/8/2024