

A G E N D A

ZONING BOARD OF ADJUSTMENT

*Council Chambers
City Hall
212 N Bonner Avenue
Tyler, Texas*

*May 16, 2024
9:00 a.m.*

Please call (903) 531-1175 if you need assistance with interpretation or translation for this City meeting.

Si usted necesita ayuda con la interpretación o traducción de cualquier material en este sitio o en una reunión pública de la Ciudad de Tyler por favor llame al (903) 531-1175.

AMERICANS WITH DISABILITIES ACT NOTICE

The City of Tyler wants to ensure that City meetings are accessible to persons with disabilities. If any individual needs special assistance or accommodations in order to participate in this board meeting, please contact the Planning Department at (903) 531-1175 in advance so accommodations can be made.

- I. Call meeting to order.**
- II. Conduct a roll call and establish a quorum.**
- III. Board Policies and Procedures.**
- IV. Consider approval of Minutes of board meeting held on April 18, 2024.**
- V. Consider Variance Items.**

VARIANCE ITEM:

V24-005 PAUL BAMBREY (1021 WILDER PLACE)

The application of Paul Bambrey, owner of Lot 1 of Wilder Way Subdivision, one lot totaling approximately 2.31 acres of land located south of the intersection of Wilder Place and Wilder Woods. The property is currently zoned “AG”, Agricultural District.

The applicant is requesting a variance to Tyler City Code Sec. 10-79, “General Requirements for Accessory Buildings and Structures” which stipulates that accessory structures must not exceed 16 feet in height.

The applicant is requesting a variance of five feet to allow for an accessory structure to be 21 feet in height.

VI. Adjourn

CERTIFICATE OF POSTING

This is to certify that on the _____ day of _____, 2024, at _____ M., the above notice was posted on the bulletin boards of City Hall.

City Clerk or Staff Designee

This is to certify that on the _____ day of _____, 2024, at _____ M., the above notice was posted on the front door of the Tyler Development Center, 423 West Ferguson Street, Tyler, Texas.

Staff Designee

**CITY OF TYLER ZONING BOARD OF ADJUSTMENT MINUTES
THURSDAY April 18, 2024, 9:00 A.M.
REGULAR CALLED MEETING IN PERSON**

Members Present:

Brent Brevard, Chair; Ron Stutes, Tim Hunt, and Jason Trimble.

Members Absent: Lawrence Levin

Staff Present:

April Early, Senior Assistant City Attorney; Kyle Kingma, AICP, CFM, Planning Director; Tharani Krishnakumar, Senior Planner, and Ana Luna Planning Technion.

Mr. Kingma explained the Zoning Board of Adjustment’s Policies and Procedures.

Approval of Minutes:

Motion was made by Mr. Hunt, seconded by Mr. Trimble, to approve the March 21, 2024 minutes.

Motion carried by a 5 - 0 vote.

Consider Variance Items:

Variance Item:

V24-002 RAY VERA JEWEL (324 EAST MIMS STREET)

The application of Ray Vera Jewel, owner of Lot 17 of NCB 1436, one lot totaling approximately 0.28 acres of land located at the northwest intersection of East Mims Street and Roy Ray Avenue. The property is currently zoned “R-1B”, Single-Family Residential District.

The applicant is requesting a variance to Tyler City Code Section 10-92.d, “Sideyards”, which specifies that an unenclosed carport may not project into the required side yard not less than five feet from any side lot line.

The applicant is requesting a variance of two feet and nine inches to allow for a carport to be placed two feet and three inches from the side property line.

Mrs. Palma stated that the provisions of the development code would deprive the applicant of the ability to construct the carport on their existing driveway. Mrs. Palma explained that the proposed carport would allow the applicant to utilize the existing pavement on the property and that there are similar examples to this found in the surrounding area.

Mrs. Palma stated that of the 22 notices mailed, no notices were returned in favor, and no notices were returned in opposition to the request. Mrs. Palma stated that staff had reviewed this request and finds that the required special conditions are present to justify a variance. Staff recommends approval of the request for a variance.

The applicant, Ray Vera, 324 East Mims St, stated he wanted to protect his assets.

Ayes: Bret Brevard, Chair; Ron Stutes, Tim Hunt, and Jason Trimble.

Nays:

Motion carried by a 4-0 vote.

The meeting adjourned at 9:21 a.m.

**ACTING CHAIR
OF THE ZONING BOARD OF ADJUSTMENT
OF THE CITY OF TYLER, TEXAS**

A T T E S T:

ANA LUNA, PLANNING TECHNICIAN

**ZONING BOARD OF ADJUSTMENT
STAFF COMMENTS
May 16, 2024**

DESCRIPTION: V24-005 PAUL BAMBREY (1021 WILDER PLACE)

The application of Paul Bambrey, owner of Lot 1 of Wilder Way Subdivision, one lot totaling approximately 2.31 acres of land located south of the intersection of Wilder Place and Wilder Woods. The property is currently zoned “AG”, Agricultural District.

The applicant is requesting a variance to Tyler City Code Sec. 10-79, “General Requirements for Accessory Buildings and Structures” which stipulates that accessory structures must not exceed 16 feet in height.

The applicant is requesting a variance of five feet to allow for an accessory structure to be 21 feet in height.

COMMENTS:

The Zoning Board of Adjustment may authorize variances from the terms of the Unified Development Code (UDC) which will not be contrary to public interest, where, owing to special conditions, a literal enforcement of the provisions of this UDC shall be observed and substantial justice done; however, no variance shall be granted unless the Board finds that the following conditions exist:

Special circumstances or considerations affecting the land involved such that the strict application of the provisions of this development code would deprive the applicant of the reasonable use of the land.

The applicant is constructing the accessory structure 25’ set back from the property line, while the UDC only requires it to be a minimum of seven and a half feet. If this structure were attached to the home, because it meets the allowed setback it could be built at a height of 42’ and be in compliance with the code. Because the structure is detached, the provisions of the development code would deprive the applicant reasonable use of the land

The granting of the application is necessary for the preservation and enjoyment of a substantial property right and not merely to serve as a convenience to the applicant.

The applicant did initially go through the proper channels of applying for a permit, however the requested height of 21’ was noticed on the approved permit after construction had already started on the structure. The applicant was informed that the structure would need to be modified to become compliant and would therefore not need a variance. The applicant is choosing to continue with the current iteration of the structure and granting the variance would serve as a financial convenience.

A variance is necessary for the preservation and enjoyment of a substantial property right of the applicant.

The requested variance is not necessary for the enjoyment of a substantial property right of the applicant because the structure could be designed in a way that is compliant with the height requirements.

The authorizing of the variance will not impair an adequate supply of light and air to the adjacent property or unreasonably increase the congestion in public streets, or increase the damages of fire or impair the public's safety, or unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, morals or general welfare of the inhabitants of the City.

The accessory structure does not impede any traffic visibility. It is not anticipated that approval of the variance will impair an adequate supply of light and air to the adjacent property or unreasonably increase the congestion in public streets or increase the damages of fire, provided that it is in compliance with the 2021 International Residential Code, or impair the public's safety, or unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety, comfort, morals or general welfare of the inhabitants of the City.

The granting of the application will not be contrary to the plan of development for the general area.

It does not appear that there are any detached accessory structures that exceed the maximum height requirements in this neighborhood.

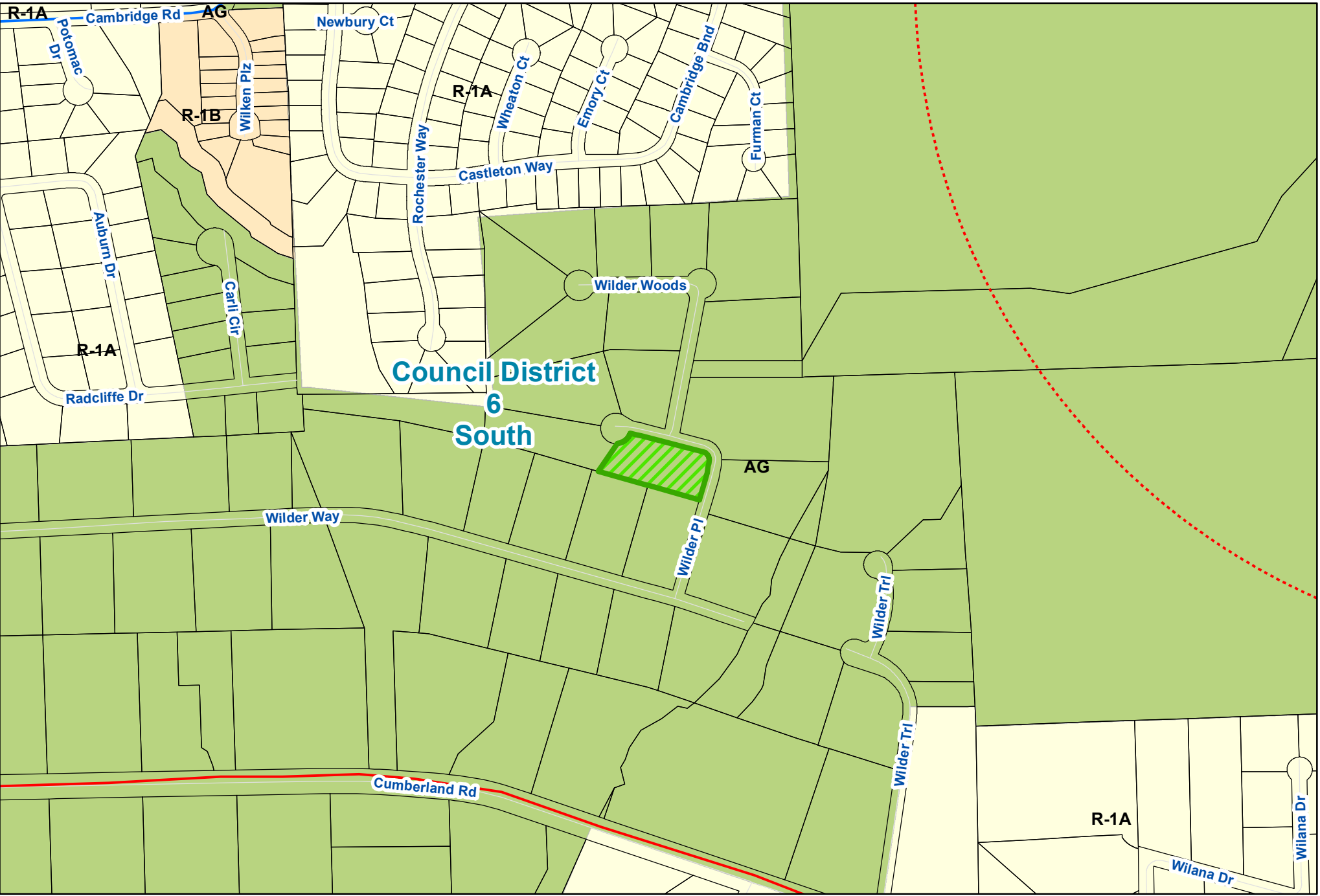
In exercising the above mentioned powers and in determining whether the required special conditions of hardship are present, the Board may consider the size and shape of the subject property, any and all financial considerations to the applicant, and any other matters that the Board determines material to the application.

Variances are reserved for cases in which a specific hardship associated with the property, beyond the applicant's control, prevents the property owner from reasonable enjoyment of a substantial property right.

As of Friday, May 10, 2024, of the 10 notices mailed, no notices were returned in favor and one notice was returned in opposition to the requested variance.

RECOMMENDATION:

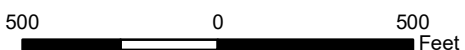
The Planning Department has reviewed this request and finds that the required special conditions are not present to justify a variance. Staff recommends **denial** of the request for a variance.



**Council District
6
South**



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.



VARIANCE CASE
Variance Case #: V24-005
1021 Wilder Place

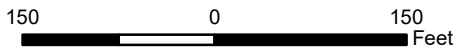


Subject Property





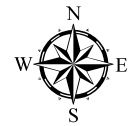
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VARIANCE CASE
Variance Case #: V24-005
1021 Wilder Place

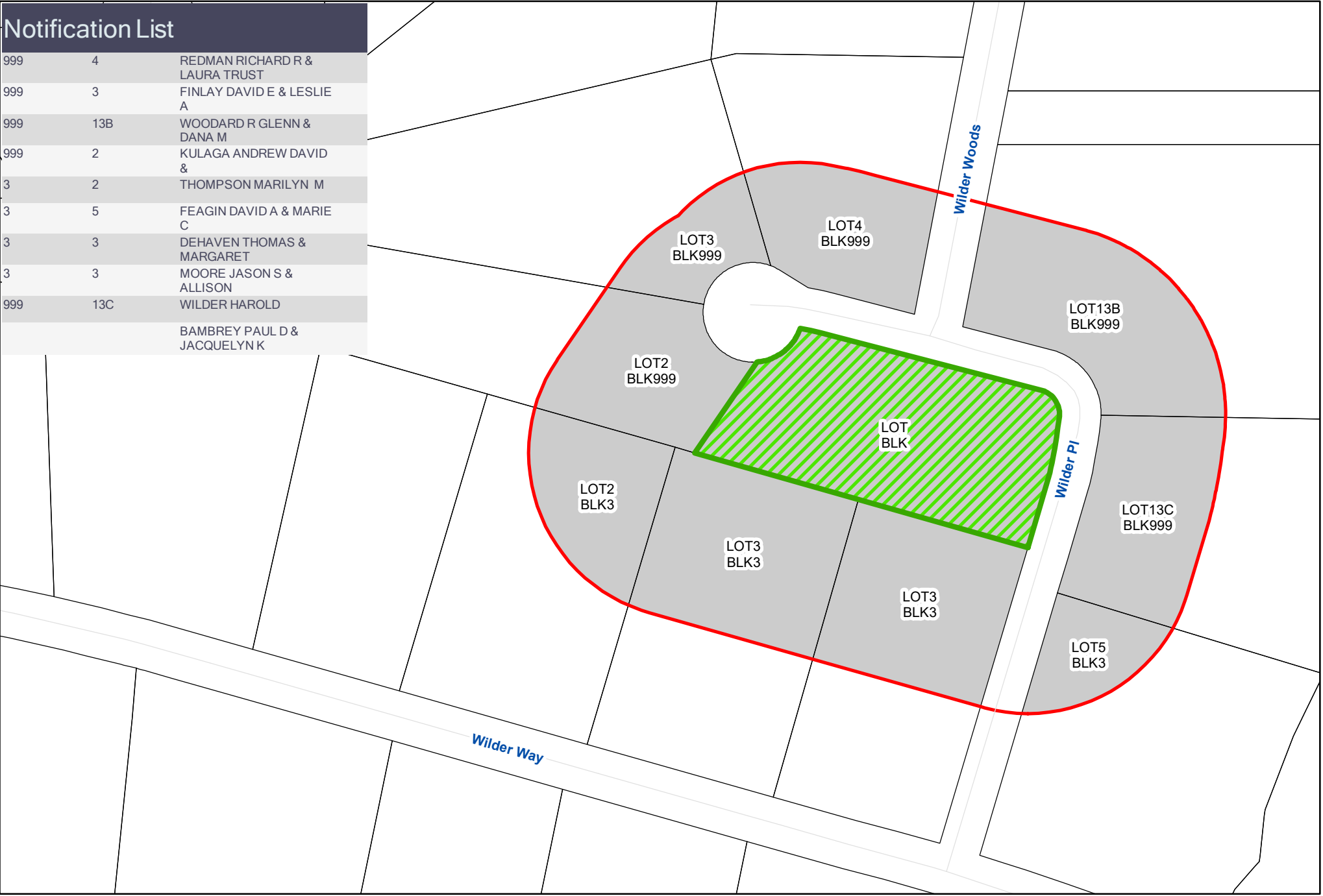


Subject Property



Notification List



999	4	REDMAN RICHARD R & LAURA TRUST
999	3	FINLAY DAVID E & LESLIE A
999	13B	WOODARD R GLENN & DANA M
999	2	KULAGA ANDREW DAVID &
3	2	THOMPSON MARILYN M
3	5	FEAGIN DAVID A & MARIE C
3	3	DEHAVEN THOMAS & MARGARET
3	3	MOORE JASON S & ALLISON
999	13C	WILDER HAROLD
		BAMBREY PAUL D & JACQUELYN K



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VARIANCE CASE
 Variance Case #: V24-005
 1021 Wilder Place

 Subject Property
 200' Mailed Notification Area



V24-005 PAUL BAMBREY (1021 WILDER PLACE)

Zoning Board of Adjustment
City of Tyler
P.O. Box 2039
Tyler, TX 75710-2039

Dear Board Members:


Below please find my opinion on the above-referenced application which is scheduled for a public hearing to be held in the City Council Chambers, City Hall, 212 N. Bonner, on **THURSDAY, MAY 16, 2024, at 9:00 a.m.**

I am **FOR** the Variance _____ I am **AGAINST** the Variance

We are strongly opposed to the variance. The Accessory Building changes the characteristics of our beautiful neighborhood. We have large lots so we are not next to neighbors property lines. The woods and beauty have been destroyed by this building and he cut down everything so we have no privacy in our pool or yard. This building is too tall to cover ^{or hide} trees.

Thomas & Margaret DeHeven

Name (Please print)

Margaret DeHeven 

Signature

1126 Wilder way

Address

May 3, 2024

Date

903 574-9482

Phone #



Subject Property



VARIANCE CASE
 Variance Case # V24-005
 1021 Wilder Place

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

0 500 Feet

The neighborhood of Wilder Way and Wilder Woods is against the variance requested by Paul Bambrey to Tyler City Code Sec. 19-79. We do not want any Accessory Buildings or Structures to exceed 16 feet.

Rottie Breyer 775 Wilder Way

2400 683 Wilder Way

Vicki Bryan 683 Wilder Way

S. Regal 801 Wilder Way

Meshelle Adams 418 Wilder Way

[Signature] 418 Wilder Way

[Signature] 332 Wilder Way

McEaster 331 Wilder Way

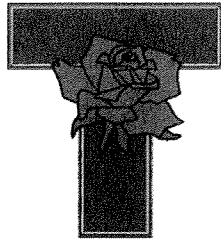
165 & Cysti LaRue 419 Wilder Way

David Nichols - 714 Wilder Way

Inette J. Cross - 1016 Wilder Way
1016 W.W.

[Signature] - 533 Wilder Way

Shelley Pyle 628 W.W.



V24-005

VARIANCE REQUEST

ZONING BOARD OF ADJUSTMENT AND APPEALS

INDEX

City Code Chapter 10, Article VIII, Division F

ITEMS REQUIRED FOR EACH APPLICATION:

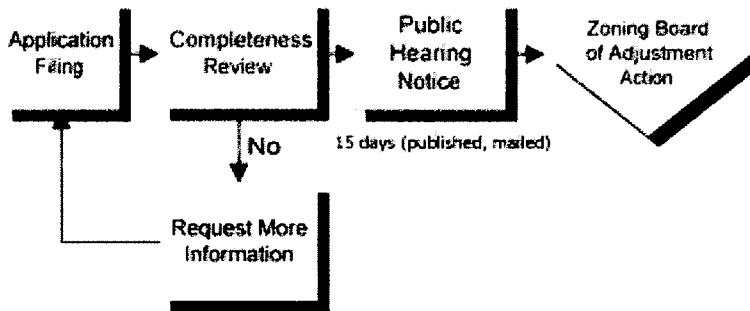
(The following items are included in this packet. Instructions are on each form. There is some repetition of information required; however, the different forms are for different processing.)

- A. PETITION FOR VARIANCE REQUEST
- B. APPLICANT'S SUPPORT INFORMATION FOR VARIANCE REQUEST
- C. STATEMENT REGARDING RESTRICTIVE COVENANTS/DEED RESTRICTIONS
- D. AUTHORIZATION OF AGENT
- E. SITE PLAN (FORM F IS AN EXAMPLE ONLY) - Provide a site plan of the variance request, indicating all existing improvements, structures, parking lots, driveways, etc., and the location of the proposed structure requiring the variance.
- F. FEE - See Section 10-776

PROCESS

Variance requests must be filed in the Planning Department, 423 West Ferguson, Tyler, Texas. The filing deadline calendar can be found in the Planning Department office. A public hearing will be held in the Council Chambers, City Hall, 212 North Bonner Avenue, Tyler, Texas.

PLEASE HAVE A REPRESENTATIVE PRESENT AT THE PUBLIC HEARING. THE APPLICANT HAS THE DUTY TO PRODUCE EVIDENCE BEFORE THE BOARD OF ADJUSTMENT TO JUSTIFY THE REQUESTED VARIANCE.



OFFICE USE ONLY

Filing Fee for Application

Receipt No.: _____ Amount: _____

Signed By: _____

RECEIVED
APR 18 2024
PLANNING DEPT.

STATEMENT REGARDING RESTRICTIVE COVENANTS/DEED RESTRICTIONS

I have diligently searched all applicable records, and to my best knowledge and belief, there are no restrictive covenants that apply to the property as described in Form A which would be in conflict with this Variance request, except as follows:

(Copy here or attach any restrictive covenant(s) that apply to your request. If there are none, then enter the word "NONE".)

[Empty rectangular box for pasting or attaching restrictive covenants]

Signed:

R. B. W.

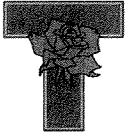
_____, Owner

_____, Agent

(When applicable - See Form D)

Definition:

"Restrictive Covenants and/or Deed Restrictions" are legal restrictions on the use of land in a subdivision, and are conditions under which you received title. These restrictions were made by the original developer, and can be different for each subdivision. The City of Tyler is not legally a party to these conditions and does not enforce them. Restrictive Covenants/Deed Restrictions are on file at the Smith County Courthouse and are also contained in the property abstract.



SUPPORT INFORMATION FOR VARIANCE REQUEST

1. What is the specific hardship involved?

5' OVER MID POINT

2. Was the hardship created beyond the control of the Owner (or previous owners) or is it peculiar to this particular property? Please explain:

NO

3. Does this property differ from other property in the same zone and vicinity as to size, shape, topography, location of surroundings? Please explain:

NO

4. Can reasonable use be made of this property without the variance? Please explain:

THE BUILDING IS ABOUT 75% COMPLETED

5. Does existing zoning deprive this property of privileges currently being enjoyed by your neighbors? Please explain:

NO

6. Will the Variance impair an adequate supply of light and air to adjacent property, or unreasonably increase the congestion in public streets, or increase the likelihood of damage by fire? Please explain:

No

7. Will the Variance impair the health, safety, comfort, morals or general welfare of the inhabitants of the City of Tyler? Please explain:

No

8. Will the granting of a Variance be contrary to the plan of development for the general area? Please explain:

NO

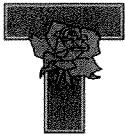
Signed:

RIBH

OWNER

OR

AGENT (When applicable- See Form D)



PETITION FOR VARIANCE REQUEST

The undersigned, as owner or authorized agent for the owner(s) of the herein described property hereby makes application in the name of:

NAME Paul Bamberg

ADDRESS 1021 WILDER PLACE

Lot _____ Block _____ Address _____

The above described property appears on plat page(s) _____

The property is zoned _____ Overlay (if applicable) _____

Variance Requested (explain in full):

5' OVER MID POINT

903-530-7621
Owner's telephone number

Signed: P. Bamberg Owner
Owner of all property

Or

Agent's telephone number

_____, Agent
(When applicable - See Form D)

Agent's Address _____

Owner's E-Mail Address PAULB@JALAPENOTREE.COM

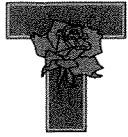
Agent's E-Mail Address _____



A. I (we), the undersigned, being owner(s) of the real property described above, do hereby authorize
 (please print name) _____ to act as our agent in the matter of this
 request. The term "agent" shall be construed to mean any lessee, developer, option holder, or
 authorized individual who is legally authorized to act in behalf of the owner(s) of said property.
 (Application must be signed by all owners of the subject property).

(Please print all but signature)

Owner(s) Name: <u>Paul Bambray</u>	Owner(s) Name: _____
Address: <u>1021 Wilder Place</u>	Address: _____
City, State, Zip: <u>Tyler Tx 75703</u>	City, State, Zip: _____
Phone: <u>903 530 7621</u>	Phone: _____
Signature: <u>[Handwritten Signature]</u>	Signature: _____
Email: <u>PAULB@TALAFEMOTREE.COM</u>	Email: _____
Authorized Agent's Name: _____	Signature: _____
Address: _____	City, State, Zip: _____
Phone: _____	Email: _____



SITE PLAN/VARIANCE ILLUSTRATION

Provide a site plan, drawn to scale of the requested variance. Indicate existing improvements, structures, parking lots, drive ways, etc., and the location of the proposed structure requiring the variance. The site plan and/or elevation drawing(s) should address minimum setback and/or maximum height standards that are to be affected by this variance. For variance requests involving signs (location, size, height, number), submit a scaled rendering of the proposed sign and a site plan indicating the proposed location.