



CITY OF WEST LAKE HILLS, TEXAS
NOTICE OF BOARD OF ADJUSTMENT (BOA) REGULAR MEETING
Wednesday, January 8, 2025 at 7:00 PM

Notice is hereby given that the Board of Adjustment (BOA) of the City of West Lake Hills, Texas, will hold a Regular Meeting on the 8th day of January 2025 at 7:00 p.m., in the Council Chamber, Municipal Building, 911 Westlake Drive, West Lake Hills, Texas, at which time the following items will be discussed, to-wit:

REMOTE ACCESS - Join Zoom Meeting at <https://us02web.zoom.us/j/3499549035> Or via telephone: Dial (346) 248-7799 – Meeting ID: 349 954 9035

If you wish to speak during the meeting or provide written comments, please email your name, phone number, comments, and the item number you wish to speak on to citysec@westlakehills.gov by 1:00 P.M. on January 8, 2025.

1. Call to Order
2. Citizen Communications The Board welcomes public comments at this point on any issue. If the issue is listed on the agenda, the speaker may choose to comment during the Public Comment period or when the specific agenda item is taken up by the Board later in the meeting. The Board cannot respond to or discuss matters not listed on the agenda. The Board may provide factual information, refer the item to a staff member, or request the item be added to a future meeting agenda. Speakers shall limit their comments to five (5) minutes each.
3. Administration Discuss and consider approval of the December 11, 2024 Regular Meeting Minutes.
4. Administration **716 Laurel Valley** – Discuss and consider action on an appeal of a decision made by the Building Official/City Inspector per Section 38.02.008(3), Procedure for appeals to the board. Applicant: Barry Schwartz.
5. Adjournment

Approved by: James Vaughan, Chair

Certificate

I certify that the above Notice of the January 8, 2025 Board of Adjustment Regular Meeting was posted on the bulletin board at the Municipal Building, 911 Westlake Drive, West Lake Hills, Texas on Friday, January 3, 2025 by 5:00 pm. and will remain posted continuously until said meeting is convened.

Signed by: Terry Blanchard, City Secretary

The City of West Lake Hills is committed to compliance with the Americans with Disabilities Act. Reasonable accommodation and equal access to communications will be provided upon request.

All items on the agenda are for discussion and/or action. The Board reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by Texas Government Code Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices), and 551.086 (Economic Development).

CITY OF WEST LAKE HILLS, TEXAS
MINUTES OF A BOARD OF ADJUSTMENT (BOA) REGULAR MEETING
Wednesday, December 11, 2024 at 7:00 PM

1. Call to Order

With a quorum present, Chair Vaughan called the meeting to order at 7:06 p.m.

BOARD MEMBERS PRESENT:

Chair James Vaughan
Dana Harmon
Brian Plunkett
Beth South
Katherine Loayza (alternate)

CITY STAFF PRESENT:

City Administrator Trey Fletcher
City Secretary Terry Blanchard
Director of BDS Jennifer Bills
Chief of Police Scott Gerdes
City Attorney Josh Brockman-Weber

2. Citizen Communications The Board welcomes public comments at this point on any issue. If the issue is listed on the agenda, the speaker may choose to comment during the Public Comment period or when the specific agenda item is taken up by the Board later in the meeting. The Board cannot respond to or discuss matters not listed on the agenda. The Board may provide factual information, refer the item to a staff member, or request the item be added to a future meeting agenda. Speakers shall limit their comments to five (5) minutes each.

Chair Vaughan opened the meeting for public comments. Hearing none, the public comment section was closed.

3. Administration Discuss and consider approval of the November 13, 2024 Regular Meeting Minutes.

MOTION: Upon a motion made by Board Member Plunkett and a second by Board Member South, the Board voted four (4) for and none (0) opposed with one (1) abstention to approve the minutes. Motion carried.

4. Public Hearing 3638 Bee Cave Road, Suite 104 - Discuss and consider action to approve Special Use Permit 157-2024-F request to allow an outdoor digital display on a property Zoned B-2 Business 2 District (West Lake Hills Code, Section 38.04.037 (c)(1)). Applicant: AP ATX Restaurant Holding, LLC (Austin's Pizza Westlake).

Director Bills gave a brief summary. Eddy Patterson (owner) gave a presentation to the Board and was available to answer questions.

MOTION: Upon a motion made by Board Member Plunkett and a second by Board Member Harmon, the Board voted five (5) for and none (0) opposed to approve the Special Use Permit subject to the conditions therein. Motion carried.

5. Public Hearing 1625 Westlake Drive - Discuss and consider action on a variance to encroach approximately 15 feet into the required 25-foot southeast side setback for the expansion of an existing nonconforming structure that is built approximately 17 feet into the 25-foot side setback (Sections 22.03.275 and 22.03.281 of the West Lake Hills Code of Ordinances). Applicant: Lucy Begg, Thoughtbarn LLC.

Director Bills gave a summary. Architect team member Adrian spoke to the Board and was available to answer questions.

MOTION: Upon a motion made by Board Member South and a second by Board Member Plunket, the Board voted five (5) for and none (0) opposed to approve the variance as requested. Motion carried.

6. Public Hearing 804 Canyon Creek - Discuss and consider action on a variance for an encroachment of 18.5 feet into the 25-foot side setback for the placement of a septic tank (Section 22.03.276 and 22.03.281 of the West Lake Hills Code of Ordinances). Applicant: Motoki Hiromatsu, Point B Design Group.

Director Bills gave a summary. Motoki Hiromatsu spoke with the Board and was available to answer questions.

MOTION: Upon a motion made by Board Member Plunkett and a second by Board Member Harmon, the Board voted five (5) for and none (0) opposed to approve the variance as requested. Motion carried.

7. Adjournment

Chair Vaughan adjourned the meeting at 7:45 p.m.

Respectfully submitted,

JAMES VAUGHAN, CHAIR

ATTEST:

Terry Blanchard, TRMC
City Secretary

These minutes were approved on January 8, 2025.



City of West Lake Hills Board of Adjustments

AGENDA REPORT

Meeting Date:	January 8, 2025	Item Number:	4
Department:	Building and Development Services		
Prepared By:	Jordan Word, Building Official/City Inspector	Cost / Budget:	None
Exhibits:	See Attached	Source of Funds:	N/A

Subject

716 Laurel Valley Rd. – Discuss and consider action on an appeal of a decision made by the Building Official/City Inspector per Section 38.02.008 (3), Procedure for appeals to the board.

Applicant: Barry Schwartz

Recommendation

Staff recommend that the Board of Adjustment uphold the Building Official's determination for mitigation of 421 caliper inches by planting on site and \$286,500 in administrative fees for the illegal removal of trees and vegetation.

Discussion

Property Information, Zoning & Site Characteristics:

Owner: Barry Schwartz

Legal Description: Lot 31 Mayo Addition

Lot Size: 1.00 acres

Zoning: R-1 One Family

The site is surrounded by R-1 – One Family lots.

Background & Analysis:

The property owner is requesting to appeal the determination of the Building Official of administrative fees and tree replacement associated with unauthorized tree removal (Attachment 1). The applicant had received a tree removal permit in response to the 2023 ice storm, but one of the requirements from the Deputy City Inspector was to submit an updated tree survey for the trees to be removed, which was never done.

The tree removal and replacement regulations require replacement of unauthorized tree removal with equivalent species and caliper inches, as well as a \$500 per caliper inch replacement fee.

- Per Section A9.003 Building, unauthorized tree removal of non-diseased trees shall carry an administrative fee of \$500 per caliper inch.

- Per Section 22.03.304 (c)(2), The diameter of trees removed in violation of this division shall be measured at the widest portion of the exposed base of the trunk for purposes of calculating replacement requirements. If no exposed base of trunk exists, then the city inspector shall estimate the diameter of trees that were removed for purposes of calculating replacement requirements.

Based on surveys and site pictures, staff has determined the following administrative fee and replacement requirements.

- Mitigation for trees 10 inches and greater – 421 inches
- Administrative fee: \$286,500 (total caliper inches of trees 8 inches and greater, 573 inches)

In subsequent communication, staff offered the applicant the opportunity to provide a letter from a certified arborist listing the removed trees that were diseased and dying in order to reduce the required mitigation. The applicant provided a letter from Green Arbors Tree Care (Attachment 6), but the arborist did not provide a list of specific trees and any professional certification information, citing 30 years of experience instead. The Code Ordinances does not specifically define certified arborist, but the ordinarily accepted meaning (Section 1.01.003) in this instance is having earned a certification or possessing a document that proves successfully training as an arborist. The state does not provide licensing to arborists, but the American Society of Consulting Arborists and the International Society of Arboriculture both provide certifications, based on a combination of education, experience, and testing.

Timeline

- October 6th, 2021 – Demolition Permit for Existing Structure Issued
 - Structure only, no site clearing allowed
- October 5th, 2021 – Dead Tree/Veg Removal Permit Issued
 - Inspector notes: “Several dead trees and branch to be removed”, “Storm Damage”.
- June 28th, 2022 – Initial Complaint (Attachment 2)
 - Initial complaint pertaining to unauthorized tree removal.
 - Email chain and images attached.
 - No documented action was taken.
- June 3rd, 2023 – Preservation of existing landscape vegetation and natural features.
 - A city-wide notice was sent out to all property owners stating an ordinance was adopted, requiring all property owners to remove and maintain the dead vegetation from their properties to reduce the risk of wildfire, per 22.03.302.
- July 20th, 2023 - Dead Tree/Veg Removal Permit Issued (Attachment 3)
 - Permit notes from Inspector: “Permit is only to remove dead trees vegetation from property, survey to be submitted”. (Permit attached)
 - Field Inspection notes: “Inspector met property owner at site. A tree survey will be submitted on dead trees and dead vegetation removal on his property. There are dead trees fallen over on his creek and along driveway.”

- No updated survey was submitted with permit or with new construction building permit that was under review.
- August 22nd, 2023 - Building Permit for New Residential Construction Issued
 - New residential house and guest house (SUP approved May 2023)
- July 22nd, 2024 – Notice of Violation Issued (Attachment 4 & 5)
 - Unauthorized tree removal, notice & tree survey attached.
 - Allowed for the submittal of a Certified Arborist letter for all trees considered dead or dying requested in an attempt to reduce the fee amount.
- September 24th, 2024 - Arborist letter received and denied; due to lack of information (identifying tree #'s) and not having arborist certification, per 22.03.303 (7)(C) (Attachment 6)
- October 21st, 2024 – Per the property owner (via email), an update tree survey was acquired and an attempt to certify the arborist letter was being made (Attachment 7).
 - Notified that certification of arborist letter was unsuccessful, an attempt to appeal administrative determination will be pursued.
- November 26th, 2024 – Appeal to Council by property owner submitted (Attachment 1).

38.02.006 Appeals to the board of adjustment

- (a) The board shall have the power to subpoena witnesses, administer oaths, and require the production of documents under regulations it may establish.
- (b) The board shall have the power to:
- (1) Hear and decide an appeal where it is alleged that there is an error in any order, requirements, decision or determination made by an administrative official in the enforcement of chapters 22, 32, 36, and 38 of the Code; and
 - (2) Authorize, in specific cases, variances from the Code that will not be contrary to the public interest; in these specific cases, owing to special conditions, literal enforcement of the provisions of the Code provisions will result in unnecessary hardship, and so that the spirit of the Code shall be observed and substantial justice done. A variance shall not be granted, however, to authorize a change of use.
 - (3) Consider and take action concerning applications for special use permits made pursuant to article 38.04, division 2 of the Code.

38.02.008 (a) Procedure for appeals to the board:

- (3) Any of the following persons may appeal to the board of adjustment a decision made by an administrative official that is related to a specific application, address, or project under chapters 22, 32, and 36 of the Code:
 - (A) A person who filed the application that is the subject of the decision; or
 - (B) A person is the owner or representative of the owner of the property that is the subject of the decision.

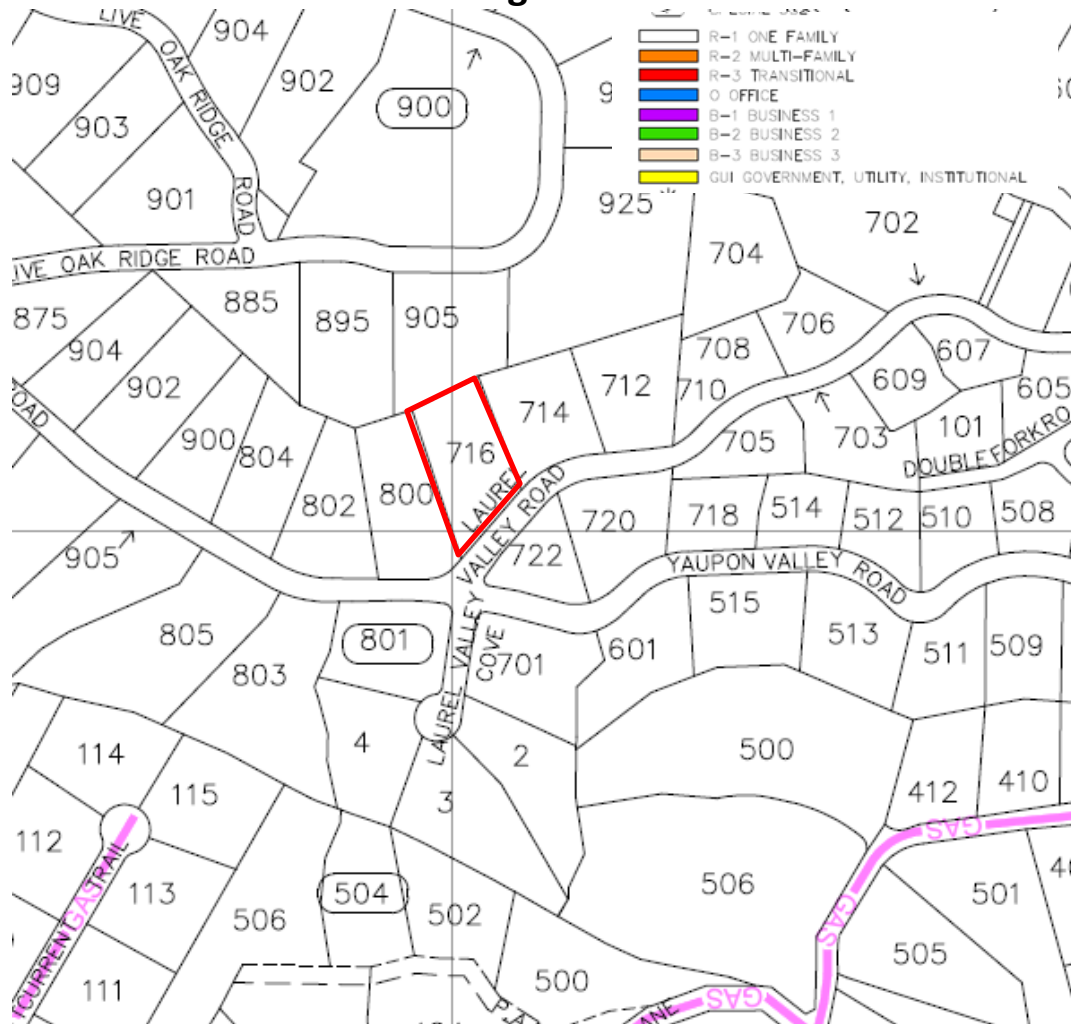
Attachments:

- Attachment 1 – Letter of Appeal
- Attachment 2 – Initial Tree Removal Complaint 6/28/22
- Attachment 3 – Tree Permit with comment - 7/19/23
- Attachment 4 – Notice of Violation
- Attachment 5 – Original Tree Survey Notations by Staff
- Attachment 6 – Letter from arborist
- Attachment 7 – Email from Applicant 10/21/24
- Attachment 8 – 2021 Site Pictures
- Attachment 9 – 2023 Site Pictures

Links to Relevant Code:

- [Section 1.01.003 Definitions and rules of construction](#)
- [Section 22.03.304 Tree and vegetation removal and replacement](#)
- [Section 38.02.006 Appeals to Board of Adjustment](#)
- [Section 38.02.008 Procedure for appeals to the Board](#)
- [Section A9.003 Building](#)

Zoning:



Aerial June 2023:



Aerial Oct 2024:



Dear Counsel Members,

I'm writing this letter in an effort to explain the tree removal on my property and the discrepancy on the tree survey that was presented to me when I purchased the lot at 716 Laurel Valley Rd. Everyone is aware of the past two winters that caused brutal ice storms and unfortunately killed or damaged many of the trees in our area. I received a letter from the city requiring that I remove any and all damaged or dead foliage from these storms in an effort to limit the potential fire hazards this could cause in the future. I made an appointment with Les and Alex on site to discuss this further to make sure I was following protocol. Les, who is no longer employed by the city, said, "Take out any tree that's dead or looks dead and try to take photos if there's any issues down the road". Les even asked that I put any long cedars off to the side so he could pick them up for fence post on a property he owned.

Never once did anyone ask to walk the property and write down tagged trees that would be removed, there's no mention of having an arborist come document what trees are dead and need to be removed, and no one ever mentioned doing a walk through after the work was completed. I tried to photograph the area but it was explained to me to use my discretion and remove at will what's needed in order to uphold the new city ordinance. I want it to be noted that many of the trees were either "missing", already dead, cut, or falling over that were on the tree survey before we even purchased the property based on photos I took pre purchase.

My request is that we come to an agreement on what trees were needed to be taken out in your opinion and agree that I'll replace what is needed to restore what it would have looked like AFTER both storms. I plan to put in over \$150k in landscape to the property but if I have to pay a large fine this will drastically reduce the landscape budget and consequently the exterior of the home will suffer dramatically. My goal is that the property is full of greenery and trees at the end of the project and the landscape is show worthy of a multi million dollar home.

Barry Schwartz

From: [Alex Sanchez](#)
To: [Jordan Word](#)
Subject: FW: 716 Laurel Valley
Date: Wednesday, August 7, 2024 7:52:27 AM
Attachments: [716 laurel valley .msg](#)
[PXL_20220628_212020140.jpg](#)
[PXL_20220628_212208497.MP.jpg](#)
[PXL_20220628_212006829.jpg](#)
[PXL_20220628_212016026.jpg](#)

From: Ashby Grundman <AGrundman@westlakehills.gov>
Sent: Wednesday, June 29, 2022 7:37 AM
To: Alex Sanchez <asanchez@westlakehills.gov>
Subject: RE: 716 Laurel Valley

Alex,

After you left yesterday, I went to the site and Barry Schwartz was there. He was upset, but I told him to trim trees and remove live vegetation he needs to call you first.

We need to make sure that when someone is doing something in direct conflict with the code that we are more assertive in shutting them down. They were still working, even though you told them not to work anymore.

I took some photos and Barry emailed me some as well.

Please follow up with Barry today and get this resolved, then let Mr. Frey and Mr. Amick know the resolution.

Thank you.

Ashby Grundman, AICP
Director of Building and Development Services
City of West Lake Hills
agrundman@westlakehills.gov
(512) 327-3628

From: Alex Sanchez <asanchez@westlakehills.gov>
Sent: Tuesday, June 28, 2022 3:49 PM
To: Ashby Grundman <AGrundman@westlakehills.gov>
Subject: 716 Laurel Valley

Ashby:

I received a complaint from Mr. Amick at around 3 pm. Mr. Amick advised someone was cutting

some underbrush at 716 Laurel Valley. I did go out there and met a worker who was at site. He was the only one and I advised him to stop for today. The property owner must call the city before any other work is done. The worker advised he was told to cut some trees tomorrow and I said that for now there is no work permitted. He understood and was calling his boss. There was a small bobcat at location.

I did speak with Mr. Amick who was on his property. He was upset but after we spoke, I told him that either me or Ashby would call him tomorrow to let him know the process for his neighbors.

From: [Barry Schwartz](#)
To: [Ashby Grundman](#)
Subject: 716 laurel valley
Date: Tuesday, June 28, 2022 5:01:05 PM
Attachments: [IMG_3648.jpg](#)
[IMG_3649.jpg](#)
[IMG_3682.jpg](#)

This is what it looked like yesterday before I removed the dead cedar branch and the small yaupons. If I thought I needed to call somebody about taking out yaupons or dead limbs I would've.

I hope you understand I'm trying to improve the property. I'll make sure to call Alex in the future.



Barry Schwartz
THE CALIBER GROUP

512.599.3940











TREE / VEGETATION REMOVAL PERMIT

Application Date: 7/19/23 Date(s) work to be performed: _____

Site Location Address: 716 Laurel Valley

Owner Name, Address, Phone, & Email: Bony Swat 555 7540

Contractor Name, Phone, & Email: _____

As shown by their signatures below, the Property Owner and/or Contractor agree to comply with all City regulations regarding tree removal/replacement and the policy statements on the back of this form.

RJB
Property Owner

AND

Contractor Performing Work (if applicable)

PERMITTED ACTIVITY

☐ Fire Safety Buffer Zone Removal: Removal of trees < 12" in order to establish a Fire Safety Buffer Zone per WLH Code Section 22.03.303(b)(5). ☐ 30 feet ☐ 100 feet on slope > 25% (ashe juniper, aka "cedar" only)	☐ Remove A Single Live Tree of Any Species < 10 Inches: Once per year, property owners may remove a single living tree with a trunk diameter less than ten inches as measured at a point on the trunk 54" above grade.
☐ Invasive Removal: Limited to invasive species as listed in the ordinance.	☐ Remove Dead Understory: Removal of dead underbrush, shrubs, ground cover or other vegetation. <u>No live vegetation may be removed.</u>
☐ Remove Dead Trees, Dead Limbs or Dead Vegetation: <u>No live vegetation may be removed.</u>	☐ Remove Ashe Juniper (Cedar) Trees < 3 Inches: Removal of any Ashe Juniper (Cedar) tree with a trunk diameter of 3" or less in diameter as measured at a point on the trunk 54" above grade.
☒ Remove Diseased or Dying Trees Removal of trees or other vegetation that are diseased, distressed or dying.	☐ Remove Trees and Vegetation for New Construction: <u>No tree removal for construction is allowed until a tree removal permit AND a building permit have both been obtained. Attach additional pages if needed.</u>
☒ Other Removal/Notes: <u>Permit is only to remove dead tree vegetation from property shrub to be removed</u>	

☐ **Replacement Required:** Some tree and vegetation removal requires the installation of replacement vegetation within 90 days in accordance with the City's Code of Ordinances.

Permit Approved by AS on 7/20/23 PERMIT#: 11722 Follow-up: 10/30/23 20150312



City of West Lake Hills

911 Westlake Drive
West Lake Hills, TX 78746
(512) 327-3628 www.westlakehills.org

July 22nd, 2024

Barry & Jenny Schwartz
1610 The High Road
Austin, Texas 78746

NOTICE OF VIOLATION

On **July 22nd, 2024**, an ordinance violation was initially documented at the subject location in which you live, manage, or own property. The following violations of the City of West Lake Hills Code of Ordinances were noted at the property identified as **716 Laurel Valley Road** West Lake Hills, Travis County, Texas 78746.

Violation description:

1. 22.03.304 Tree and vegetation removal and replacement.

(c)(4) Any person violating any of the provisions of this division shall be deemed guilty of a class C misdemeanor, and such offense shall be punishable by a fine not to exceed two thousand dollars (\$2,000.00) per offense. Each tree removed in violation of this division shall be considered a separate offense. A person does not commit an offense under this section unless the person intentionally, knowingly, recklessly, or with criminal negligence engages in conduct as the definition of the offense requires.

Unauthorized removal of non-diseased trees carries a fee of \$500 per caliper inch, per City Ordinance [22.03.304 \(c\)\(4\)](#) & [A9.003 Building](#), in accordance with Local Government Code [212.905 \(2\)\(b\)\(2\)](#). In addition to the fee, a one-to-one replacement of all trees removed without authorization is required, per City Ordinance [22.03.304 \(c\)\(3\)](#). The total fee and mitigation amounts listed below:

Tree Number/Type/Size:

Under 10" – 14/Jun/8", 18/Jun/9", 39/Jun/9", 46/Jun/9", 98/Jun/9", 101/Jun/9", 102/Jun/8", 116/Ash/8", 119/Jun/9", 188/Jun/8", 123/Jun/8", 124/Jun/9", 158/Jun/8", 190/Jun/8", 191/Jun/8", 193/Jun/8", 201/Jun/9", 390/Jun/8". **Total Caliper Inch: 152"**

10" and Larger – 19/Jun/10", 47/Jun/10", 48/Jun/13", 52/Jun/11", 57/Jun/17", 58/Jun/18", 69/Jun/11", 70/Jun/15", 89/Jun/12", 99/Jun/12", 112/Jun/14", 115/Jun/17", 117/Jun/13", 156/Jun/10", 157/Jun/12", 160/Jun/13", 170/Jun/11", 171/Jun/12", 172/Jun/11", 176/Jun/11", 177/Jun/11", 179/Jun/10", 180/Jun/10", 182/Jun/11", 183/Jun/11", 185/Jun/10", 186/Jun/12", 189/Jun/11", 196/Jun/12", 197/Jun/16", 204/Jun/11", 260/Jun/10", 261/Jun/17", 369/Jun/10". **Total Caliper Inch: 421"**

Total Tree Mitigation Required: 421" Caliper Inches (total caliper inches of trees 10" and larger)

Total Fee Amount: \$286,500 (total caliper inches of trees 8" and larger: **573"**)

The fee associated with this notice is to be paid within the timeline provided below. Please provide any documentation provided by a licensed arborist of any dead or dying trees leading to the unauthorized removal. Concurrently, an Updated Site Plan, Tree Survey, Tree Mitigation plan as well as any other standard documentation as required by the City of West Lake Hills.

We request your cooperation in correcting the above violation(s) **within thirty (30)** days after notice is served (by **August 22nd**, 2024), at which time a follow-up inspection will occur. Properties that remain in violation and that have not contacted the office for an extension will be subject to additional enforcement actions (municipal court tickets and/or the correction of the violation by the City with related costs plus administrative fees being filed against the property by lien) as deemed necessary to ensure that West Lake Hills maintains a healthy and safe community. Please be advised that such citations may be issued each and every day the violation exists. If the City is forced to correct the violation, you shall be billed for the work done, plus a two hundred dollar (\$200.00) administrative fee.

Should you have any questions concerning this notice, please contact West Lake Hills Code Enforcement at (512) 327-3628. Your cooperation is appreciated.

Respectfully,

City of West Lake Hills Code Enforcement

Jordan Word
Building Official/City Inspector
City of West Lake Hills, TX
Direct – (512) 610-6827
Office – (512) 327-3628 (ext. 827)

> 10" - 14, 18, 39, 46, 98, 101, 102, 116, 119, 122, 123, 124, 157, 190, 191, 193, 201, 390

(= 152 Caliper inch)

< 10" - #19, 47, 48, 52, 57, 58, 69, 70, 89, 99, 112, 115, 117, 156, 160, 170, 171, 172, 176, 177, 179, 180, 182, 183, 185, 186, 189, 196, 197, 204, 260, 261, 369, 157

(= 421 Caliper inch)



Green Arbors Tree Care

In reviewing all of the evidence presented by Barry of Caliber Group, it is my professional opinion that the trees that were removed from 716 Laurel Valley were either dead or severely damaged beyond repair by the two recent winter storm events. I remember seeing the devastation at 716 Laurel Valley firsthand during both storms. I have customers in very close proximity to this location. The nature of the growth habit of the trees in this area makes them particularly susceptible to breakage from wind or ice. The trees are all very tall and skinny, having grown in an understory environment prior to the development of the area. I have reviewed many photos of the damage from both storms. I do not see any reason to believe any trees removed from this property were viable trees. There are even several more trees on the front of the property that are dead, and several with severe damage from the last ice storm that will likely not survive. There is also a dead tree on the back right of the property that is in danger of falling on the structure.

I am an arborist with almost 30 years of work experience, and I own and operate Green Arbors Tree Care here in Austin. Please accept this letter as my personal and professional testimony to what I believe to be true.

Will Michell

Owner, Arborist

Green Arbors Tree Care

From: Barry Schwartz <calibergroupatx@gmail.com>
Sent: Monday, October 21, 2024 1:23 PM
To: Jordan Word
Subject: Re: Tree removal letter

Follow Up Flag: Follow up
Flag Status: Completed

Jordan,

I have the survey already completed and I've reached out to one of the arborists on the approved city's list to come and inspect what's been done to date and try and get this resolved this week. I'll forward you the letter from them as soon as I have it. Thanks again,

On Thu, Oct 10, 2024 at 8:20 AM Jordan Word <jword@westlakehills.gov> wrote:

Barry,

We have not received a certified arborist report. As previously discussed, experience does not give any person the ability to self-certify. This is true of all construction trades and design professionals. At this point we need you to either appeal this decision made by city staff or compile with our request to provide a certified arborist report of the dead and/or dying trees so that we can reduce the fine amount as always intended. I will be out of state beginning Tuesday of next week, returning Monday, October 28th. I expect a decision on your next course of action by that time or we again will have no choice but to issue the citation to municipal court, which will lead to delays of your project until a legal determination is made.

I understand your position but disagree with what you've stated in your previous email. Being that you have introduced legal counsel into this conversation I have no choice but to ask that you direct all inquiries pertaining to the matter to our City Attorney Josh Brockman-Weber; josh@txmunicipallaw.com.

Thank you,

Jordan Word

Building Official/City Inspector
 City of West Lake Hills, TX
 Direct – (512) 610-6827
 Office – (512) 327-3628 (ext. 827)



From: Barry Schwartz <calibergroupatx@gmail.com>
Sent: Wednesday, October 9, 2024 7:07 PM
To: Jordan Word <jword@westlakehills.gov>
Cc: James Gill <jgill@austin-criminallawyer.com>; Rob My Attorney Holcomb <rdh@khctlaw.com>
Subject: Re: Tree removal letter

Barry Schwartz
 THE CALIBER GROUP

512.599.3940

On Oct 9, 2024, at 1:21 PM, Jordan Word <jword@westlakehills.gov> wrote:

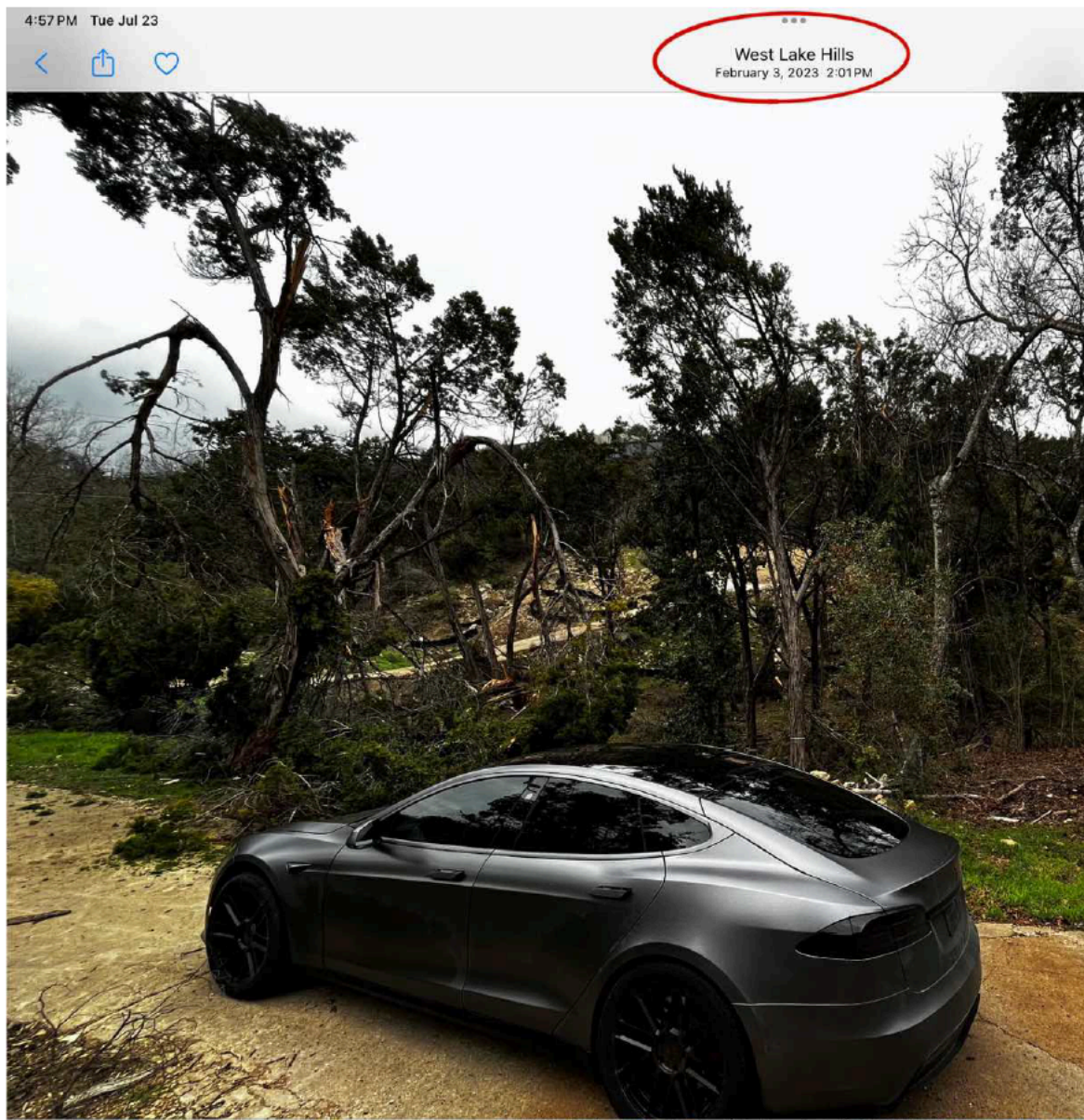
Barry,

The letter you sent is the full letter, there were no requirements to provide an arborist letter for the dead vegetation due to the extreme nature of the situation after Ice Storm Mara. Like I said before, the issue is the living vegetation in the pictures taken after the storm (see image below showing after the ice storm compared to today). Much of the living vegetation in the center of the property shown in the images below seemed to be in good shape and not in need of removal, this is why we need a certified arborist to tell us that there was a need to remove them (because they were dead/dying or dangerous) and list the tree numbers so we can reduce the violation. I took pictures to document the damage from the storm for my own records, not as "proof" that trees / vegetation was alive, dead, and or damaged. No where in the letter sent out by the City of Westlake does it mention that the owner needs to document what's damaged or dead. The pictures I took were days after the storm so of course, all the trees are still going to be green regardless of the shape they're in. At the end of the, I complied with the city's request to remove any and all vegetation that had been damaged from the storm. I met with a city official, Les, who is

no longer employed by the city on site and his exact words were, "take out anything that is damaged or blown over from the storm". You asked me to get a certified arborist to verify that the trees / vegetation removed was in fact damaged from the storm after the fact. I did this and now you're saying you don't recognize him or his company as a certified arborist. In my opinion, I did what was asked without hesitation and feel that you guys are back tracking on what was originally requesting without any previous documentation.

Also keep in mind, we have record of an issue that occurred back in 2022 of cutting trees without permit on this property. Dead or not, there is still a "no-cost" permit required prior to any tree removal which would help us in these situations because we would have record of the removal. This is also why it is so important to provide a current and/or updated tree survey with new construction plans as required by our drainage manual and checklists. The scenario you're referencing is when I was removing dead footage (leaves and small brush) in order to get the property presentable in order to sell it. I was unaware I needed a permit to clean up dead leaves and brush and have since made a note to obtain a permit if it comes up again. I have a new tree survey that I'll present at the appeal hearing if this isn't resolved before then. I am prepared to have legal counsel and median coverage if needed to resolve the issue. You guys asked me to remove dead trees and I did so without any parameters and now after the fact, you're wanting to fine me hundreds of thousands for complying.

You can always Appeal an Administrative Action by going to the permit [portal](#), clicking Apply Online For Planning and Zoning, then Appeal of Administrative Action.





Thank you,

Jordan Word

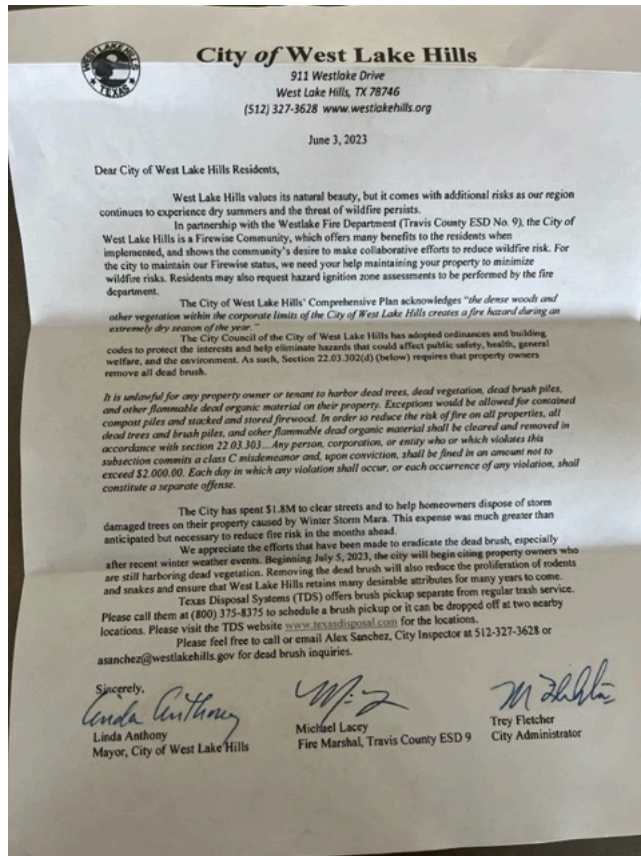
Building Official/City Inspector
City of West Lake Hills, TX
Direct – (512) 610-6827
Office – (512) 327-3628 (ext. 827)



From: Barry Schwartz <calibergroupatx@gmail.com>
Sent: Tuesday, October 8, 2024 9:05 PM
To: Jordan Word <jword@westlakehills.gov>; James Gill <jgill@austin-criminallawyer.com>
Subject: Tree removal letter

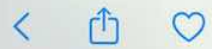
Jordan,

This is a copy of the letter I received certified mail approximately a year ago. Was there more than one page? I don't see any notes or provisions requesting an arborist certification of a dead tree only that ever land owner is required to remove any and all dead vegetation or be subject to a fine. I'll call you tomorrow to discuss in more detail. I'd prefer to handle this without going through city counsel but based on the information provided to me.



Barry Schwartz
THE CALIBER GROUP
512.599.3940

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Barry Schwartz
Caliber Group | Owner/Builder
w 512.599.3940 | www.caliber-group.com
[Residential Construction](#) | [Light Commercial Construction](#)



West Lake Hills
September 16, 2021 4:17 PM





West Lake Hills
February 3, 2023 2:01PM





West Lake Hills
September 16, 2021 4:17 PM



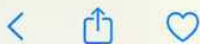


West Lake Hills
June 28, 2021 9:18 AM



LIVE





West Lake Hills
September 16, 2021 4:40 PM















716 Laurel Valley Rd.

4. Discuss and consider action on an appeal of a decision made by the Building Official/City Inspector per Section 38.02.008 (3), Procedure for appeals to the board.

Applicant: Barry Schwartz

716 Laurel Valley Rd.



716 Laurel Valley Rd.

- Notice of Violation filed for the property on July 22, 2024, for tree removal observed during a construction site inspection.
- From the tree survey in the approved new construction building permit plan set, staff determined that 573 caliper inches of trees 8 inches and greater were removed that were not shown on the plans.
- Required mitigation:
 - 421 caliper inches replaced on site
 - \$286,500 administrative fee

716 Laurel Valley Rd.



June 2023



October 2024

716 Laurel Valley Rd.

September 2021



716 Laurel Valley Rd.

July 2024



716 Laurel Valley Rd.

- In lieu of mitigation, staff offered the opportunity to the applicant to submit a letter from a certified arborist listing the trees that were removed as dead or dying.
- A letter was submitted, but did not contain any specific tree information, updated survey, and was not from a certified arborist.
- No adopted definition for “certified arborist”. Ordinarily accepted meaning, “having earned a certification or possessing a document that proves successfully training as an arborist”.
- American Society of Consulting Arborist and International Society of Arboriculture both offer certifications.

716 Laurel Valley Rd.

- Staff recommendation:
Uphold the Building Official's determination for mitigation of 421 caliper inches by planting on site and \$286,500 in administrative fees for the illegal removal of trees and vegetation.