

Minutes
Board of Zoning Appeals
Wednesday, August 18, 2020

Call to order

The "Zoom" platform meeting was called to order by Chairman Joe Dughman at 5:00pm

Board Members present

Joe Dughman, Chairman Pete Zabaski, Vice Chairman
Haley Dale Chris Tardio

Staff Members present

Beth Reardon, City Manager Doug Berry, City Attorney
Lyle Patterson, Assistant City Manager and Building Official
Edie Glaser, City Recorder

Conflicts: None

Consideration of the Minutes - July 17, 2020 (deferred)

Old Business:

1. The application of Bill Wilson (20073), 700 Belle Meade Blvd., for a conditional use permitting the construction of a swimming pool, a variance/special exception for walls and pool equipment. The building permit has been denied for the following reason.

- A. Swimming pool require BZA approval. Approved 7/20
- B. Walls are in other than permitted location. Deferred sixty days.
- C. Walls are over allowed height. Deferred sixty days.
- D. Pool equipment is outside building envelope. Deferred sixty days.

Presentation: Jordan, representing for Bill Wilson stated that when they came before the Board last month the pool was approved. The walls however were too tall, the pool equipment was outside the building envelope and the walls were outside permitted locations. They have since reduced the wall heights in the front of the house to 6 feet. The columns are now at a height of 6 ft 8. The walls at the side and rear yard are now under 6 ft. The walls at the left returning to the face of the garage are at 6 ft. The walls on the side and rear yard are under 6ft and the pool enclosure at the rear of the house is at 6 ft. At the wrought iron fence, we exceed 6 ft, we are at 6ft 4. The grade falls to maintain positive drainage away from the house about 4 inches. This is the reason for the 4 inches above the allowable height.

The pool equipment is still located outside the building envelope. We have provided documentation to Lyle Patterson showing the pool equipment being used in this application will not exceed 45 decimals. With that and the combination of the walls that surround it that serve as noise abatement we believe this is the best location for the pool equipment.

L. Paterson added that Staff recommends approval and that the acceptable decimal level in the City is 55 decimals.

Board Questions/Comments:

P. Zabaski, the pool equipment requires a variance for us to approve it. Before we can approve the equipment, we have to agree that this lot qualifies

for a variance. A variance was issued several years ago to this property due to a drainage issue.

Patterson, the variance that was issued to this property was due to a creek that runs through the property that is incased now.

Motion to approve the application as presented understanding that the Board agrees the property qualifies as a variance: Zabaski

Second: Tardio Vote: All aye

New Business:

1. The application of Dana Zukierski (20081), 1208 Nichol Lane, for a special exception permitting the installation of a generator. The building permit has been denied for the following reason.

- A. Generator is outside the building envelope.
Staff does not recommend approval.

Presentation: Dana Zukierski, resident of 1208 Nichol Lane, began her presentation with a diagram of her property showing two possibly locations for a generator. The preferred location is outside the building envelope but is significantly closer to the existing electrical panel and would create less noise to the neighbors that touch her property. This location would be less disturbing to the existing irrigation and landscaping. The second location is within the building envelope but is significantly further away from the electrical panel. The generator to be installed would be used only in the event of a power outage and not used on a regular basis. Shrubbery would be planted around the generator to abate noise. The sound decimal is 63 at 23 feet.

Board Questions and Comments:

- P. Zabaski, is there a reason the back of the house has not been a consideration for the location of the generator?
- D. Zukierski, the back of the house is not an option due to the number of windows lining the back. Codes requires a certain amount of distance between the windows and a generator.

Board Discussions:

Motion to approve the generator inside the building envelope: Zabaski
Second: Dale Vote: All aye

2. The application of Joel Lyons (200802), 404 Lynwood Boulevard, for a conditional use permitting the construction of a swimming pool and a variance for grade change. The building permit has been denied for the following reasons.

- A. Swimming pool requires BZA approval.
- B. Grade change over allowance outside building envelope (36 inches) by 21 inches. Staff recommends approval.

Presentation: Mamie Finch with Page Duke Landscape Architects, we are requesting a pool to be built in the rear yard that is within the building envelope at 404 Lynwood Boulevard. The pool equipment is located in the building envelope and we meet the 6ft pool fencing requirement. There is a portion of the pool deck that is exceeding the max grading allowable by 21 inches. This is to get the grade level down on the back side of the pool

terrace. It is 106 square feet over on the grade change. It is over the 36 inch requirement.

Currently the lot slopes from the main house back into the left corner. There is a natural creek in the back we are trying not to grade into. If we elevate the pool terrace by 18 inches, we can avoid slopping down into that grade.

Board Questions and Comments:

Brain Anderson, 3907 Abbot Martin Road, my home is directly to the rear of 404 Lynwood Boulevard. I am concerned with the pool terrace and grade change affecting the runoff into my yard and my garage. There is a lot of water that runs off this property into my property. This has been a problem since the house was built and I am afraid this is only going to make it worse.

M. Finch, a stormwater study will be done to get this requirement approved to construct. All of the drainage and grading will need to be approved for the full stormwater study.

J. Dughman, Mr. Anderson have you had any expert look at this project to see if they would make any changes to the existing water flow?

B. Anderson, I have not.

J. Lyons, I have lived at this property for four plus years and this is the first I have heard of any drainage issues from Mr. Anderson. I was not aware of this.

L. Patterson, this home before it was built submitted a plan that had to go through two or three reviews. If this pool is approved, it will have to go through a full stormwater plan and probably two reviews. This pool will not be given a permit until that stormwater process is approved.

P. Zabaski, and the purpose of that stormwater approval is to prevent water run off on neighboring properties?

L. Patterson, that is correct, stormwater plan is meant to capture the first one inch of rainfall and everything after that has to have a controlled flow.

P. Zabaski, Mr. Anderson how long have you been living in your home?

B. Anderson, three years.

William Robertson, 408 Lynwood Boulevard, I am the next door neighbor to 404 Lynwood Boulevard. I am opposed to this application. I have observed the drainage problem that Mr. Anderson has mentioned that comes off into his yard. Drainage water flows off of the concrete driveway at 404 Lynwood Boulevard into my backyard when there is a down pour. I was concerned when I saw that the grade would be increased by 21 inches. The former house was around 38,000 square feet. A much smaller house than Mr. Lyons house that is there now.

Board Discussions:

C. Tardio, L. Patterson did you know about the neighbor's issue when you evaluated this and gave your recommendation or is this the first you have heard of it?

L. Patterson, this is the first I am hearing this.

C. Tardio, would this change your recommendation?

L. Patterson, no it would not.

H. Dale, L. Patterson how does City of Belle Meade Stormwater approval process interact with Metro?

L. Patterson, there is no interaction with Metro. We have our own MS4 and our own City Engineer. J. Lyons would hire a Civil Engineer to prepare a stormwater plan to submit to our City Engineer, Steve Casey, to go under review. It will most likely have two reviews and those comments and corrections are given back to his Civil Engineer. If Mr. Lyons is open to it, I would suggest when doing the new Stormwater review for the pool that he re-

evaluate the entire property particularly the neighbors to the right and to the rear of his property.

J. Lyons, I am open to doing that and doing my part to resolve the issue.

P. Zabaski, our job here is not to determine Stormwater runoff. Our job is to see if it meets the conditional use standard of the ordinance. I believe it does. Stormwater is handled outside this Board.

L. Patterson, when someone makes a complaint about a Stormwater issue it is the responsibility of this office to follow up on it. Now that we are made aware, those complaints will be taken into effect along with the new stormwater plans.

**Motion to approve the pool as submitted: Zabaski Second: Dale
Vote: All aye**

Motion to approve the grade change agreeing that the lot does qualify as a variance: Zabaski Second: Tardio Vote: All aye

3. The application of Jack Wallace (20083) 110 Westhampton Place, for a conditional use permitting the construction of a green house. The building permit has been denied for the following reason.

A. Green house requires BZA approval. Staff recommends approval.

Presentation: Charlie Rankin with Rankin Design Works, we are here to seek approval to construct a Hartley Botanical greenhouse at the rear of the property. It is before the Board because it is a conditional use. Hartley Botanical is a company based in England that fabricates greenhouses. The proposed greenhouse is a white aluminum structure with a brick base around the bottom with a limestone cap. It is in keeping with the materials of the existing house. We are trying to match the brick as close as possible. The greenhouse will be located in the rear of the property. We are within our setbacks. The entry to the green house will be situated in the center of a small pathway that will branch off an existing sidewalk that leads to the main house and an existing guest house on the property. The proposed green house will add 146 square feet to the footprint. We are well within all of our allowables.

Jack Wallace, 110 Westhampton Place, we did not realize we needed to come before the board, so we are at your mercy since we are having the greenhouse constructed now and it is due for install in October. It is going to be the nicest greenhouse in Belle Meade.

Board Questions/ Comments:

P. Zabaski, what are the dimensions of the greenhouse?

C. Rankin, 15 ½ feet long by 8.6 feet for the main body and a height of 10.11 feet.

Board Discussions:

Motion to approve as submitted: Dale Second: Tardio Vote: All aye

4. The application of Jeff Leeper (20084) 4403 Honeywood Drive, for a special exception permitting the construction of a gate. The building permit has been denied for the following reasons.

A. Gate is over allowed height. Staff recommends approval.

Presentation: Jeff Leeper, contractor, we have two existing columns that were on the property prior to the renovations that we have done. Due to the

width of these columns they are needing a 5ft tall hinge point to support the weight and the structure. The proposed gate is open air.

Board Questions/ Comments:

H. Dale, how tall are the columns?

J. Helms, they are 6 feet 6 tall.

P. Zaaski, was there a gate there before?

J. Helms, no

H. Dale, do you have any photos of gates in the neighborhood?

J, Helms, not on Honeywood. There is one on Belle Meade Boulevard and Lynwood Boulevard that are similar.

Board Discussions:

P. Zabaski, there are not any gates on a house in or around this neighborhood. It is unusual for a board to approve a gate in a neighborhood where there are not any gates or any gates over 3ft. There are no comps in this area.

J. Dughman, the gate is how tall?

J. Helms, the gate is 5ft at the tallest point.

P. Zabaski, Lyle can you explain why you recommend this for approval?

L. Patterson, the gate design is open. The gate is 3ft in the middle, it is attractive and sits far enough off the road.

J. Dughman, how far off the road are the columns and gate?

J. Helms, it is approximately 27 feet off the road.

L. Patterson, how tall are the walls?

J. Helms, the column are 6 ft tall and the wall at the street is 3 ft. tall.

H. Dale are these historic walls?

J. Helms, I am not sure, but we are treating them as if they are.

J. Dale, so the only thing you are adding is a gate, everything else is already there?

J. Helms, correct.

J. Dughman, does the owner want a gate for security.

J. Helms, yes, the property is about 4 acres with a very long driveway. It is mainly to keep people from driving up the driveway.

Motion to approve: Dale Second: Tardio Vote: 3 yes, 1 opposed

5. The application of Belle Meade Country Club (20085), 815 Belle Meade Boulevard for a special exception for the construction of an expanded parking lot. The building permit has been denied for the following reason.

A. Under Appendix D. Country Clubs construction or improvements upon a country club site requires BZA approval.

Presentation: Anna Maddox, Civil Engineer with Barge Cauthen and Associates, Tom Hooper, Chairman of the Green Committee at Belle Meade Country Club and Belle Meade Country Club General Manager, Michael Seabrook began their presentation with visuals showing where the proposed new 55 parking spaces will be located on the property. The new 55 parking spaces will be used primarily to accommodate the new fitness center that is currently under construction that is due to open the end of September 2020. The new parking lot will prevent members from parking on Harding Place which they do frequently. The entrances to the Club will remain the same. One on Harding Place and one on Belle Meade Boulevard. With the new plan there is a new turn around on the Belle Meade Country Club property. This will eliminate members turning around on Harding Place.

Board Questions/Comments:

H. Dale, can you tell us about the camera's?

T. Hooper, yes, additional camera's will be added for extra security. New lights will be installed as well. They will be 12 ft.

Board Discussions:

Motion to approve as submitted: Zabaski Second: Dale Vote: All aye

6. The application of Lamar Stanley (20086) 506 Lynwood Boulevard, for a special exception permitting the construction of an addition. The building permit has been denied for the following reasons.

A. Low slop roof allowance has been exceeded.

B. Portion of mudroom addition is over side set back.

Presentation: Shelly Carder, this is a low slope roof with portions of it at 4-12 and portions of it at a true flat roof. The roof overhang extends the setback but not the building footprint. We are requesting a special exception due to that fact that we are not sure what we can do to maintain an under 30% portion as a low slope. The most appropriate resolve is to maintain the existing style of the house by maintaining the exact slope.

Board Questions/Comments:

H. Dale, what year was the house built?

S. Carder, 1951

P. Zabaski, the extension is outside the side setback?

S. Carder, yes, it is approximately a two foot overhang, but the building is inside the setback.

Board Discussion:

Motion to approve as submitted: Zabaski Second: Dale Vote: All aye

7. The application of Nashville Design Build (20087) 309 Westview Avenue, for a conditional use and variance permitting the construction of a swimming pool. The building permit has been denied for the following reason.

A. The swimming pool requires BZA approval.

B. Pool is partially outside the rear building setback.

Staff recommends approval.

Presentation: Chip Leonard owner of Nashville Design Build and the property at 309 Westview Avenue stated that the house sits on a narrow and odd shaped lot. It was planned this way in 1913. The house was built in the 1990's exactly to the front and rear setbacks. The pool would be located in the back of the house. It is fifty percent within the sixty foot setback and grades would not change. There is a flat area directly behind the house that sits up perfectly for the location of the pool. We will be planting evergreens in the back near the creek area to provide a buffer between the houses on the rear side of the house. The neighbors to the left and right are at a further distance. The right does not see the pool. There is a large set of buffer trees between the left side of our house and the neighbors that exists now.

Board Questions and Comments:

H. Dale, what is the total acreage of the lot?

C. Leonard, 1.53 acres

J. Dughman, what is the reason for your variance request?

C. Leonard, there is not enough room to put the pool in the back of the house within the existing setback. We can get fifty percent in.

H. Dale, Lyle can you explain why this lot is so bizarre?

L. Patterson, when the lot was established July 26, 1913, they did not have building envelopes. This lot has a very odd envelope. I talked to Mr. Leonard about this being a variance due to its very odd shape.

P. Zabaski, is the pool equipment inside the envelope?

C. Leonard, yes, the pool equipment is in the far back corner inside the setback.

H. Dale, did you consider moving it closer to the home?

C. Leonard, the pool right now exists about 10ft off the house. It is fairly close to the house now.

J. Dughman, are you planning any buffering around the pool equipment?

C. Leonard, yes, we will be doing some landscaping around it.

Board Discussions:

Motion to approve as submitted recognizing that the lot does qualify as a variance due to its unusual shape: Zabaski Second: Dale Vote: All aye

8. The application of Buddy Ortale (20088) 424 Sunnyside Drive, for a conditional use permitting the construction of a swimming pool. The building permit has been denied for the following reason.

A. Swimming pools require BZA approval. Staff does not recommend.

Presentation: Gavin Duke with Page Duke Architects stated they are proposing to put a pool on the second level up on the upper terrace. It will be an 8 x 26 lap pool. It will have a drop off of thirty inches that would meet code for no rail on the edge. The pool equipment would be located and accessed through the garage beneath the shallow end of the pool. We are wanting to terrace from the pool level down and have green space at the lower portion with a two foot wall with a gate to access the bottom of the steps.

Board Questions/ Comments:

H. Dale, is this a pool on a second floor of a home?

G. Duke, on Sunnyside all those lots drop severely to the back. There is ample room in the back to put a pool if there was not the 60 foot setback.

J. Dughman, do you have plantings around the pool?

G. Duke, there are plantings that mask the 30inch and screen off the 6ft.

P. Zabaski, there is not deck level at the pool?

P. Duke, the deck level is part covered and part uncovered that opens up to the pool. We designed this trying to be within the allowable and trying to fit the fencing requirements, the pool equipment and trying to go within the existing limits of the house.

Board Discussion:

P. Zabaski, Lyle why do you not recommend approval?

L. Patterson, it is outside the building envelope in the rear.

H. Dale, the entire pool is outside the building envelope?

L. Patterson, yes with the exception of about a sliver.

J. Dughman, part of the house is outside the building envelope?

L. Patterson, that is correct.

P. Zabaski, unless this lot qualifies for a variance, we cannot approve it.

P. Zabaski, obviously the variance must have been approved for them to be approved to build a house that far back. The applicant would have to come back to the Board and sell it as a variance.

B. Ortale, per my conversation with Lyle Patterson there is precedent for this where they allowed outside the building envelope but to the existing build.

P. Zabaski, if the lot qualifies as a variance and the Board approves a variance then the Board has authority to approve a pool outside the setbacks. If a variance is not applied for then the Board does not have the authority to approve a swimming pool outside the setbacks. In order for them to consider it you have to apply for a variance and note the lot is a variance in your application, so the public is aware of it. You asked for a special exception on a conditional use and not a variance so there is nothing we can do about it at this point.

Motion to defer for up to sixty days: Zabaski Second: Tardio
Vote: All aye

Motion to adjourn at 7:20pm: Dale Second: Zabaski Vote: All aye

Chairman Joe Dughman

City Recorder Edie Glaser