

BZA Meeting Minutes via "Zoom"
February 16, 2021
City of Belle Meade

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

Board Members present

Joe Dughman, Chairman Pete Zabaski, Vice Chairman Gloria Sternberg
Chris Tardio Doug Hale

Staff Members present

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

Consideration of the Minutes January 19, 2021

Motion to approve: Sternberg Second: Tardio Vote: All aye

Old Business:

1. The application of Jack Fleischer (21011) 112 Lynwood Boulevard for a conditional use permitting the construction of a swimming pool and a special exception for a fence. The building permit has been denied for the following reasons.

- A. Swimming pool requires BZA approval. Approved January 19, 2021.
- B. Fence is in other than permitted location.
Deferred until March 2021

New Business:

1. The application of Sarah Thompson (21021) 209 Evelyn Avenue for a conditional use permitting the construction of a swimming pool and a variance for the location of pool equipment. The building permit has been denied for the following reasons.

- A. Swimming pool requires BZA approval.
- B. Fence is in other than permitted location.

Presentation: Gavin Duke, Page/Duke Landscaping, this house does not square up with the back property line. We have squeezed in the pool in the building envelope. There is a portion of the pool equipment that is outside the building envelope that we are asking for a variance. The pool equipment will be located behind the existing garage and will be fenced (images displayed of the backyard). We are within our square footage and ratios. We are trying to go off the rear sections of the house for the fence.

Board Questions and Comments:

- Sternberg, what was Mr. Patterson's recommendation of this application?
- Patterson, I recommend approval on the pool and leave it up to the Board on the pool equipment.
- Zabaski, the fence is not on the Agenda?
- Patterson, it is not in question.
- Sternberg, could you expand on the variance?
- Duke, a pool always requires us to come before the Board for a variance. The pool equipment would be a variance because a portion of

it is within the building envelope and a portion of it is not. We can get the pool pump and the pool filter in the envelope. The pool equipment will be fenced.

- Hale, what is the height of the fence along the rear of the yard? I do not see it labeled.
- Duke, it would be a six foot height that is required of the pool enclosure.
- Hale, for the record it should be labeled.
- Duke, we will do that.
- Hale, what is the area outside the master bedroom?
- Duke, there is a closet addition going in that area. I am unsure if a permit has been pulled for that addition.
- Hale, that looks to me like a good place to put the pool equipment.
- Duke, I agree, if we had enough room in that area.
- Hale, has that permit been pulled?
- Patterson, the only permit they have pulled is a demo permit for the interior.
- Zabaski, the Board has to accept this as a lot qualifying for a variance to have the authority to approve that outside the building envelope. What is the criteria that you would like to convince this Board that makes this a variance?
- Duke, this is an odd, shaped lot. The existing house was preserved because it was there. There was not an option to move it forward for that building envelope. The other option for the pool equipment is to place it in the space next to the closet area of the master bedroom addition. We could stack the equipment and go vertical. If we get the pool approved.
- Sternberg, is that a patio behind the garage?
- Duke, yes, that is an existing patio.
- Dughman, you are proposing to put the pool equipment left of the garage, correct?
- Duke, to the left of the garage and back because the setback line hits that corner of the garage and it splays. It does not go parallel with the house.
- Tardio, do we have a view of the lot shape compared to the lots around it? It is your position that the lot shape is unique in some way that requires the variance for the pool equipment.
- Duke, yes, this lot has a notch in the back of it. The house lines up with the front property line but not the rear property line. There is then a notched out section in the back that impedes onto the property.
- Tardio, does that shape impact where you are going to put the pool equipment?
- Duke, it does a little but not necessary. It does not wedge the setback line. It has bearing but not entirely. There are two buildings in the back in that corner notch, and they are right on the property line. We could put it against the master closet, but it will aesthetically not be as nice crammed in that space.

Board Discussion:

Sternberg, I do not think we have established a variance. I propose we split the motion between the pool and the pool equipment.

Motion to approve the pool as submitted: Sternberg Second: Zabaski
Vote: All Aye

Motion to deny the variance based on the criteria in the Ordinance for the pool equipment: Sternberg Second: Zabaski Vote: All aye

2. The application of Jody Lawton (21021) 425 Jackson Boulevard, for a conditional use permitting the construction to replace an existing swimming pool with a new swimming pool. The building permit has been denied for the following reason.

A. Swimming pool requires BZA approval.

Presentation: Gavin Duke, Page/Duke Landscape Architects, this property has a larger pool than what the owner would like to have therefor we have reduced the size of the pool and putting it back close to the same location as the existing one but a smaller shape and size. The fencing already exists.

Board Questions and Comments:

- Sternberg, it is existing pool equipment, and we are replacing the pool. Does that negate the fact that the pool equipment was already there? Do we have to treat this as if it were going to be a new pool with new pool equipment?
- Berry, I think that is how we treat it. It is a typical conditional use permit. There are no variances or special exceptions. I think its fair to treat it as a new application.
- Duke, if an existing or a previous Board had approved the location for the pool and pool equipment, does that have any bearing?
- Berry, does the previous Board bind you as to where? I do not think it does.
- Duke, we have an existing use in that area we just want to renovate the existing pool. We will use the same piping and some of the same equipment. We are not changing any of the use.
- Berry, I do not think it makes any difference.
- Patterson, I did not put it on the Agenda because the pool equipment is existing, whether it is inside or outside, they are merely asking to reconstruct the pool inside the building envelope.
- Zabaski, my sense is the pool equipment would be grandfathered in. There is nothing on the Agenda nor do I think there should be anything on the Agenda about the pool equipment.
- Hale, do we know whether or not this pool equipment location was granted a variance to be where it is? Or are we approving something that never was approved to begin with?
- Duke, we originally did this house. I can probably find out in our archives. It was probably in the late 90's and it did have to go before the BZA for the pool and the equipment.
- Hale, if this was previously approved, then I do not think we have any authority to reconsider now. If it was not, then I think we would. Should we assume that it is there because it was approved to be there?
- Dughman, I think that is a fair assumption. The pool equipment is not on the Agenda and I do not think it needs to be. The only thing on the Agenda is the pool.
- Hale, is there a minimum height for the gates under the safety code?
- Duke, six feet is the pool enclosure fencing rule or ordinance.
- Hale, is there a proximity of fencing to the pool?
- Duke, it is required to go from the rear of the house to the property lines on the sides. But this fence exists as it was approved earlier.

- Hale, the fence and gate heights in some locations are labeled as six feet. Even though they are existing, I would like for the record to reflect that they are all in compliance with the minimum height conditions, both gates and fences.
- Duke, yes, we can do that when we submit for permit.
- Zabaski, it is the Building Officials responsibility, not the Boards, to make sure the fence either comes before the Board or it does not. If it does not come before the Board it is because the Building Official has determined that it meets the criteria for the fences established by the zoning code. We will see fences that are not on the Agenda because he has already accepted where they are, and he has the absolute authority to do that.

Board Discussion:

Motion to approve the application as submitted: Zabaski
Second: Sternberg **Vote:** All aye

3. The application of Delphine Damon (21023) 1019 Chancery Lane, 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

Presentation: Tara Armistead, architect on the project, we are within the building setback and the building ratios. The pool sits in the rear yard. The pool nests up against the screened porch and the master bedroom. As we have designed it you will walk out of the screened porch, which sits above the existing grade, and you will be on level higher than existing grade. The rail and the wall surrounding the pool will serve as the pool fence. The pool would sit 10ft above grade. At the highest point 10ft above the pool would sit 10ft above grade. At the lowest point, the grade would slope across the wall and you would be 6ft above the grade of the home. We are working with existing grades but rather than see the foundation of the house we are tucking it in there. This is not a full size pool. It is a plunge pool, 7ft by 11ft and the spa is 7ft by 7. That is how we are gaining the fence around the pool is by keeping the pool on the first floor level of the house as the lot falls away. Looking from the garage side there is a six foot gate and then as the slope falls away the six foot wall goes to a nine foot wall. We are planning on planting some hollies in front of that wall for privacy along with some magnolia and dwarf sweet bay magnolia.

Board Questions and Comments:

- Zabaski, is this in a floodplain?
- Armistead, no
- Berry, pools are a conditional use permit there is no variance being sought.

Motion to approve as submitted: Tardio **Second:** Sternberg
Vote: All Aye

4. The application of Clay Stauffer (21024) 418 Lynwood Boulevard, 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.

Presentation: Gavin Duke, Page/Duke Landscape Architects, the pool we are bringing you tonight is within the building envelope and the square footage is good. The pool equipment is within the building envelope. Fence comes off the back 6 feet height. It is labeled on our drawings for the pool enclosure. It meets all the requirements. We are asking for a conditional use approval.

Board Discussion:

Motion to approve as submitted: Zabaski **Second:** Sternberg
Vote: All Aye

Meeting adjourned 6:14pm

Chairman Joe Dughman

City Recorder Edie Glaser