

Minutes
Board of Zoning Appeals
Belle Meade United Methodist Church
February 18, 2020

Call to order

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

Board Members present

Joe Dughman, Chairman Pete Zabaski, Vice Chairman
Haley Dale Charlie Atwood Mal Wall

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 - December 17, 2019

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

Consideration of the minutes - January 21, 2020

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

Old Business:

1. The application of St. George's Episcopal Church (19126), 4715 Harding Pike for a special exception governed under the zoning ordinance Appendix A, Churches and Schools, permitting the construction of the Boy Scouts Storage Shed. The building permit has been denied for the following reasons.

- A. Accessory buildings and detached structures require BZA approval.
- B. Accessory structure is outside building envelope.

Presentation:

Cam Sorenson, Chairman of the Building Committee at St. George's began his presentation stating they are requesting to construct an eight hundred and eighty square feet storage shed for the Boy Scouts Troop 31. The shed will be about the size of a two car garage. It includes three garage doors, two on the front and one on the rear. It includes a commode and a wash sink for equipment. It will not be air conditioned. It will not be used for meeting space or gathering space for scouts. The use of the building is generally limited to about ten weekends a year. That is about the number of campouts. They will show up occasionally on Friday afternoons but more often Saturday mornings to load the trailer, get their gear and leave. They return on Sunday's to unload the trailer, wash the equipment and leave. The scout shed will then not be utilized until the next camp out.

The finish floor elevation of the proposed scout shed is four hundred seventy-two feet. That is approximately twenty-eight feet below the finish floor elevation of the residence at 106 Belle Meade Boulevard. Overall the structure is 18 feet tall which puts the peak roof still 10 feet below the finished floor elevation of 106 Belle Meade Boulevard.

The structure is approximately 164 feet from 106 Belle Meade Boulevard compared to 115 feet to the old 104 Belle Meade Boulevard where the scouts used to store their gear.

At the December 2019 meeting we were asked if we had considered other alternative locations that might be considered for this facility. We felt anything on the right side of the Church would be more visible not less visible to 106 Belle Meade Boulevard and to Belle Meade Boulevard and Harding Road. Other locations (Sorenson pointed on the map displayed) were eliminated due to a creek, power lines, and the St. Georges playground space.

Mr. Dean (representative for Mrs. Garrett) contacted me to see if we had other locations for the scout shed and to meet and discuss. I contacted him on February 7th, 2020 with an exhibit of the plan.

In conclusion we continue to believe that due to the constraints we have been through that this is the best if not the only location we have for this facility. We respectfully request your approval.

Board Questions and Comments:

Dale - Is the fence shown in the photos the property line?

Sorenson - Yes, and we will be planting a screen line.

Audience Questions and Comments:

Carol Nelson, 103 West Hampton Place, asked if she could have some screening. She stated you can see the construction from my driveway. I know you can not hide the entire building, or the Boy Scout shed but if I had some screening, I would appreciate it.

George Dean, Attorney for Mrs. Garrett at 106 Belle Meade Boulevard, thanked Mr. Sorenson for sending him the exhibit he received on February 7, so they could see things a little more clearly. One of the concerns Mrs. Garrett is having are the pavers that are running beside the building to the property line. She is concerned about access and activity on that side of the building. We are showing a 11 ½ setback, the ordinance starts with 250. The question that keeps coming up to me is what is the set back for Mrs. Garrett's house? She has a required setback here that I don't think can be varied because I don't think there is anything on that property that justifies variance. She has 45 feet on one side and 30 feet on the other side. Which means her side set back of 45 feet is four times the amount that the boy scout shed will be from her property line. A residential property given four times the amount of a side yard as opposed to a ten acre very active Church property. It does not seem correct to have a residential use providing most of the setback. If you look at the edge of the scout building to the edge of her property about 150 of that is on her property. The buffer is provided by her, it should be the other way around. They are the ones developing they are the ones that should be providing the buffer.

I realize the Church does not want to lose any parking spaces, but one wonders why you could not just move the shed back 40 feet and at least provide the same set back that Mrs. Garrett provides on her property. This forces the 10-acre Church development to provide as much set back as the 2-acre residential development adjacent. To do it the other way is a lack of fairness there. I understand the Church does not want to spend a lot of money into this boy scout shed but at the same time they have 10 acres all Mrs. Garret has is two acres and does not want this jammed up at her property line.

Ray Garrett, son of Mrs. Garrett approached the podium and stated the Diocese does have 5 acres on Woodmont and the Boy Scouts have 2.2 acres on Hillsboro Road and Woodmont so there are other areas the storage shed could be located. This is a twenty-million-dollar project. I would think they could find a

place for this partial storage building and there are plenty of parking spaces. I appreciate your consideration.

Zabaski asked Ray, what is the real problem with the building because she will not be able to see if from her house and limited activity there?

Mrs. June Garrett, 106 Belle Meade Boulevard, approached the podium saying this building has taken away all my peace and quiet and has also been an expense. I have cooperated with the Church on a plan they showed me. They did not tell me they has switched to a different plan. I now have a gymnasium, a public parking lot, and the life building already right beside my residence, so my privacy has been taken away. The strip between me and St. George's activities where there were trees and undergrowth have been all cut away. That changes my quality of living immediately. If you put this building on my property line you will be putting on my shoulder's eighty percent of a twenty-two-million-dollar building project. That is cruel and unusual. Ray added he liked George Dean's point where it is 164 feet and all but 11 feet of that is her property. Who would want this to be added to their property in Belle Meade if it were 11 feet?

Atwood stated that the BZA does not write the code in the City. We are not responsible for making alterations to the building code tonight. We are responsible for making decisions on the existing building code.

Mrs. Garret stated she asked the Board to please not make her bare the eighty percent of the twenty-two-million-dollar building project.

Dughman, read a letter dated January 10, 2019 which is a follow up letter dated December 21, 2018 from the Reverend Dr. Leigh Spruill.

Atwood asked Mrs. Garrett if the reason she was upset was due to the twenty-million-dollar project? Garrett answered, I had legal basis to bring a suit against the variance that was approved in 2019 but the same night of the meeting I decided I did not want to be at odds with anybody and did not want to bring the suit. I cooperated with that, but this just seems to be wrong to me. That I am to bare eighty percent of the whole building effort. There is no reason why the boats have to be kept at St. George's. It seems to me it would be appropriate to build on the Boy Scouts headquarters property. It is not a simple shed it is a sturdy building with additions of paved surfaces where buses and trucks will be loading and unloading. They have been given a yes to the variances I would think as I resident I would be given consideration.

Atwood used the example of Belle Meade Country Club that is currently undergoing a large construction project. It is having a big impact to those living near the Club. Belle Meade Country Club and St. George's Episcopal Church are the same in the sense that setbacks are totally different than they are for residential lots.

Dughman closed off the public portion of the meeting.

Board Discussions:

Dale made the comment that per the Agenda we are dealing with this as an accessory structure. Dale asked Berry, if I were to erect an accessory structure on my own property there would be certain rules for that?

Berry, right. I think the Church is regulated entirely by Appendix A under our zoning ordinance. In my opinion Appendix A governs all aspects of the development of Church.

Dale, is it also then your opinion that we do not have restrictions on the accessory structures that are permitted to be built on a Church property?

Berry, 250 feet from the boundary of any lot. Permit can be granted with out adverse negative effects on the adjacent property then that is what we ask this Board to make. That is the way it is currently regulated.

Berry referred to Appendix A, paragraph 1.1.

Zabaski read aloud Appendix A, paragraph 1.1.

Berry commented the ordinance requires the Board to make the findings. The Board needs to talk about weather or not they think there has been a negative impact on the neighboring properties.

Motion for approval subject to stipulations that required findings in the ordinance have been met: Atwood Second: Wall Vote: All aye

Dale read the requirements in Appendix A, paragraphs one and five. All Board members agreed these requirements have been met.

New Business:

1. The application for Will Coleman (20021), 705 Lynwood Blvd., for a conditional use permitting the construction of a swimming pool and pool cabana. The building permit has been denied for the following reasons.

- A. Swimming pools require BZA approval
- B. Pool cabana requires BZA approval

Presentation:

Joel Lyon and Johnathan Helm present on behalf of Will Coleman and his wife Patti full plans and cabana plans for 705 Lynwood Boulevard. The plan calls for a pavilion, a pool, patio space, and an elevated patio deck with a fire pit. Body of water and pool equipment are within the building envelope. We have included a good bit of evergreen to the right side of the property. The house on the left is 105 feet. Both homes sit in front of the pool area. We have talked to our clients to ask to screen for those purposes.

Board Questions and Comments:

Dale, could you explain about the fence?

Helm, yes, the fence height is 6 feet.

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

2. The application of Colin Baker (2022)401 Georgian Place for a conditional use permitting the construction of a swimming pool outside the building envelope.

- A. Swimming Pool requires BZA approval.

Presentation:

Gavin Duke with Page Duke Landscape Architects began his presentation stating this is an odd shaped corner lot. The two story house is under renovation now. The family would like to add a pool. The pool is out of the building envelope. It is a seventy foot set back. There is not enough room on the Georgian Place side and Herbert Place is very tight. Right now, we have a 14x30 pool that has been squeezed as close to the house as possible. Part of the home as it stands now is already out of the building envelope.

My thinking was to do a straight line from that across. The pool would be in that and not go beyond what is already beyond the setback. We are proposing

to come in with a dense evergreen screen for privacy on the Herbert side and other side.

Board Questions and Comments

Wall, what is the distance from the back corner of the terrace to the rear side property?

Duke, around 55.

Zabaski commented, I do not recall us ever approving a pool outside the building permit because it is against the ordinance, as far as the conditional use. Berry added, swimming pools are treated as conditional use. A person can ask for a variance from the ordinance but to do so they would have to establish the criteria for a variance. You will have to have a variance if building outside the building envelope.

Dughman commented, the ordinance says the approval by the Board of the size, dimension, and location of the same may be constructed or erected within the building envelope. It does not say you cannot construct it outside the building envelope.

Berry answered, but to do so you are asking for an exception to the variance. Barbara Mayden, 4414 Herbert Place, commented she would like to be a good neighbor but has concerns about the noise of the pool and pool equipment, the hours of use of the pool and the lighting of the pool. They would not like to see a wall but like the idea of a fence with serious evergreen. We were living at our home during the flood and are concerned about the engineering. We would need some assurance that there would not be water run off or leakage into our property. Patterson commented he had received a couple of calls from neighbors concerned about the pool going on the right side of the house. Dughman stated if the pool where to be approved we do not have any control over the noise.

The public portion of the meeting was closed.

Board Discussion:

Zabaski said we do not have any authority to issue a permit on a conditional use for a swimming pool that is outside the building envelope. That has always been the standard.

Dughman, I don't know if I agree with that looking at the ordinance. The ordinance reads, it may be constructed, it does not say it can not be constructed. However, it is our custom not to do that.

Motion to defer sixty days: Zabaski Second: Atwood Vote: All aye

Motion to adjourn: Atwood Second: Dale Vote: All aye

Chairman Joe Dughman

City Recorder Edie Glaser