

Minutes
Board of Zoning Appeals
Tuesday, June 16, 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
Gloria Sternberg Mal Wall Chris Tardio

Staff Members present

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

Conflicts: None

Consideration of the Minutes - May 19, 2020

Motion to approve: Zabaski **Second:** Sternberg **Vote:** All aye

Old Business:

1. The application of Susan Geraghty (20052), 312 Deer Park Circle, for a variance and conditional use permitting the construction of a pool and pool equipment. The building permit has been denied for the following reasons.
 - A. Pool is outside building envelope.
 - B. Pool equipment is outside the building envelope
(Staff does not recommend approval)

Presentation: Ben Page with Page/Duke Architects, we are requesting a variance for the construction of a pool. The pool will be 16x32 feet. It will be 36 feet from the back of the property line and 37 feet from the side of the property line. Adjacent to the side of the house is the pool equipment that is 28 feet 9 inches from the property line. We are under on all the requirements for square footage and hardscape.

The current adjacent pools in the neighborhood are:

- 405 Belle Meade Boulevard the pool is 42 ft from the property line.
- 301 Jackson Boulevard the pool is 19 ft from the property line.
- 306 Deer Park Circle the pool is 26 ft from the property line.
- 310 Deer Park Circle the pool is 19 ft from the property line.
- 311 Deer Park Circle the pool is 48 ft from the property line.
- 224 Deer Park Drive the pool is 56 ft from the side property line.

Board Questions/Comments:

Wall, major portions of the house and the pool are outside the building envelope?

Page, yes.

Sternberg, this has been switched from a conditional use to a variance. Can you talk through the variance request?

Page, it is a corner lot and it is outside the building envelope. It was submitted last month and suggested it come back as a variance request.

Patterson, that is correct. All pools are a conditional use and it was suggested last month by the Board and by the City Attorney that it should be written as a variance.

Berry, all pools are a conditional use. Because this pool is being built outside the building envelope it is required by the Zoning Ordinance to have a variance. The question is what is the unusual feature of this lot that makes it a variance?

Page, the pool we are requesting is tightly knit to the house and existing garden. This lot being half the size of the adjacent property behind where the pool is 48ft off of the property line we feel there is sufficient evidence of a variance here for a pool.

Gerry Geraghty, 312 Deer Park Circle, some of the neighbors have sent in a letter to the Building Official Lyle Patterson, in support of the pool. Zabaski, if the lot does not meet the criteria for a variance, we cannot go any further.

Gerry Geraghty, the original home was built in the 1930's or 40's. It was remodeled by a prior owner to me in 1995 and made into a double story from a single story. They inherited where the home was on the lot when they remodeled it in 1995. I'm not sure that has any impact on how we view the variance but a lot of the homes in the neighborhood have been remodeled over the years and pools were incorporated at different point and times prior to the current zoning rules that require the 60 ft set back.

Wall, if you rotated this house ninety degrees so that it faced the other side street would the building envelope be big enough to encompass this structure with a swimming pool behind it?

Patterson, no.

Zabaski, who drew that building envelope? It does not seem like it is big enough for that lot.

Ed Tessler , we calculated the building envelope and with it being a corner lot essentially you have two front yards. Lyle and I both determined this was the building envelope for this lot under the current zoning.

Patterson, the house has two front setbacks, so the building envelope is correct according to the ordinance. These homes were built before the ordinance. The building envelope was created to preserve green space.

Gerry Geraghty, the character of the homes on Deer Park are somewhat smaller homes but very heavily landscaped and most have privacy walls.

Wall, is our ordinance written that a corner lot has to have two front yard setbacks?

Berry, it is the way it has consistently been interpreted.

Gerry Geraghty, this pool would stay within the harmony of the neighborhood and would not be seen from the street.

Board Discussions:

Zabaski, could it be a variance since it is a corner lot?

Berry, I have seen Boards do it because they are on a corner lot.

Zabaski, if this was an empty lot and this was the building envelope that they had to build within I would think the lot would qualify for a variance because it is a large lot for that building envelope.

Dughman, I do not see anything extraordinary about this lot like we have seen in the past and proven in the past because of very unusual shapes of lots.

Sternberg, is there any reason this would go before the Municipal Planning Commission?

Patterson, the corner lot ordinance was mainly created to help corner lots that were undeveloped. It was to take away one of the street frontages. If we took away a street to the North on this address it would extend the building envelope out, but it would not help with the rear set back of 60 feet (Patterson drew on the plan to show this for the Board).

Dughman, the language of the variance requirement is the extraordinary and unusual shape as compared to other properties in the immediate neighborhood. Wall, it is absolutely in keeping with everything around it. There is nothing unusual about the shape of the lot
Dughman, I agree.

Motion to deny the applicant: Wall Second: Sternberg Vote: All aye

2. The application of Brian Fox (20054) 610 Belle Meade Boulevard for a special exception permitting the construction of a fence, and a conditional use for a swimming pool. The building permit has been denied for the following reasons. Staff recommends approval.

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

Presentation: Gavin Duke, Page/Duke landscape architect, after the last meeting we went back and shifted the pool. It is now in the building envelope. We also looked at the fence that was in question. It is 6 feet. It is located off a corner that comes off the screened porch. It does not have a foot hold. It will be flush with grade. It meets the requirements of a fence in Belle Meade. The pool equipment is within the building set back.

Board Discussion:

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

New Business:

1. The application of the The Temple (20061), 5015 Harding Pike, for a special exception permitting the construction of a playground. The building permit has been denied for the following reason.

- A. Under appendix A, churches and schools, construction and alteration require BZA approval. Staff recommends approval.

Presentation:

Mark Shepard, The Temple Facility Manager, our intentions are to remodel the playground only. We are not doing any work to the existing structure or building. We are bringing in new equipment for the playground and adding a play space area for our pre school kids. We will have play areas, water areas, plenty of shade, swing sets and slides.

Board Questions/Comments:

Sternberg, it is just replacing the existing playground is that correct?
Shepard, yes and we are moving the wall 20 feet out towards the driveway.

Board Discussion:

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

2. The application of Kristen Payne (20061), 4415 Harding Place for a conditional use permitting the construction of a sports court. The building permit has been denied for the following reasons.

- A. Sports courts are an accessory use and require BZA approval.

Presentation: Ron Farris with Farris Concepts Architecture, we are asking you to consider a proposed play area or sports court. This would be a hard surface for the children to play various activities such as roller skating or

they may put up a temporary basketball goal. The existing driveway is entirely pea gravel. The arborist has advised them not to pave or do any grading work to the existing gravel driveway for concern that the large tree would be damaged and/or not survive through the activity. We are within all on our ratio components with hard surface. We are not exceeding any of our allowables as bulk standards.

Board Questions/Comments:

Wall, is it paved?

Farris, it will be a concrete surface.

Sternberg, will it be lit at all?

Farris, no, we are not proposing any lighting.

Zabaski, sports courts are not mentioned in the zoning code. Is it ok to approve something that is not mentioned in the ordinance? Do we have to add it to the ordinance before we can approve it?

Berry, I would go ahead and approve it and we can sort it our later.

Tardio, if it is approved today and in two or three years they want to make a material change would they need to come back to the BZA for approval?

Patterson, any change whatsoever they have to come back to the Board.

Board Discussion:

Motion to approve as submitted: Sternberg Second: Tardio

Vote: All aye

3. The application of Mark Jarecki (20063), 600 Lynwood Boulevard for a conditional use permitting the construction of an accessory structure, a variance and special exception for grade change and walls. The building permit has been denied for the following reasons.

A. Accessory structure requires BZA approval.

B. Grade change is over allowed amount of 24 inches between the property line and 20-foot property line buffer.

C. Wall over allowed height of 3 feet.

Staff recommends approval

Presentation: Isaac Wantland, landscape architect for the project, this is the last lot in Belle Meade. We are the only lot on the corner of Sunnybrook and Lynwood. There is an existing guest house on the property that is very close to the sideline. It is a guest house now but what we are proposing is to replace it with an accessory structure that will consist of a shop, lounge area with patio and a pool table area. The existing guest house is outside the building envelope and the house is outside the front set back. It is an odd lot.

Currently the existing accessory structure sits closer to the sideline. It is also very elevated. Finished floor is 5 feet higher than the existing house. The retaining wall we would put in would be greater than 3 feet which would allow us to drop the proposed accessory structure down in grade elevation, so it is down on the site. It will be less visible from the neighbor and will bring it into the total envelope. Overall on all of our ISR numbers we are under except the roof. The existing house is a ranch style home that is all 6/12. Every roof that is existing and proposed would be under 6/12 because that is what we have. Currently the garage doors face Sunnybrook and there are two entrance ways off of Sunnybrook. We are going to keep the two entrance ways but are sliding them down to basically put some screening up to buffer that visual from Sunnybrook.

The request to do the wall over 3 feet is because we are dropping the grade to get the finished floor down and to get the accessory structure lower on the site.

We are asking to relocate an accessory structure within the envelope on this lot.

Board Questions/ Comments:

Wall, all of the new structure is inside the building envelope?

Wantland, yes.

Wall, so the only exception to the zoning code is that it is a detached structure?

Patterson, that is correct.

Zabaski, is the existing structure in good shape?

Patterson, it is not.

Zabaski, will it cost over 50% of it's value to rebuild it?

Chad Harris, contractor, absolutely it would be more than 50% to repair it.

Zabaski, can that structure be easily converted into an apartment?

Patterson, we have a short time rental in place where that is not allowed.

Zabaski, there is an ordinance in place that you can not build a new long term rental property.

Dughman, the intent of the applicant is to build an office, a shop, fireplace and patio. If something happens down the road and is converted into something that is improper, we would take a look at it at that time.

Patterson, if they were renting it out to someone, we would catch that.

Zabaski, how high is the wall?

Patterson, the highest point is 6 feet and it is acting as a retaining wall not a decorative wall. It graduates down as it goes down to the front of the property.

Dughman, why does the retaining wall need to be 6 feet?

Wantland, without it we would be raising the accessory structure back up out of the ground. Basically, it's allowing us to place the finished floor of the accessory structure very close to the existing house. We still have five steps up to the accessory structure. We looked at using some of the structure as the retaining wall, but it got complicated with waterproofing that side.

Board Comments:

Zabaski, where the retaining wall will go, I am assuming they will not have to do more digging than is allowed?

Patterson, there is more digging as explained in B. But it is a small area.

Motion to approve: Wall **Second:** Zabaski **Vote:** All Aye

Meeting adjourned at 6:34pm:

Chairman Joe Dughman

City Recorder Edie Glaser