

**BZA Minutes  
City of Belle Meade  
November 17, 2020**

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

**Board Members Present**

Joe Dughman, Chair	Pete Zabaski	Haley Dale
Chris Tardio	Erick Clifford	

**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 September 15, 2020.**

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

**Consideration of the Minutes October 20, 2020**

**Motion to defer:**    Zabaski            **Second:**   Dale            **Vote:**   All aye

**Old Business:**

1. The application of Jerry Hancock (20101) 213 Paddock Lane, for a variance permitting the construction of a new single-family home. The replacement of a residential structure with a new residential structure is permitted in the zoning ordinance provided that no pre-existing non conforming use, structure, and/or variance from the provisions of the zoning ordinance will be extended closer to the property line by reason of construction of such a new structure. The building permit has been denied for the following reasons.

- A. House is over allowed footprint.
- B. House is over allowed F.A.R.
- C. House is outside building setbacks in rear.

**Presentation:** Catherine Sloan, I am the architect representing the Sloan's at 213 Paddock. There is an existing 1945 rental home on the property that they are tearing down to build. It is a non-historic home that is in poor disrepair. They are replacing it with a modestly scaled one and half story Dutch Colonial. It was approved by the Historic Zoning Commission. It was designed with architectural character and materials to tie into the neighborhood to make it appear that it has always been there. We are over on F.A.R. and footprint but we are in keeping with the averages on this street. The houses on either side are also over and our footprint and F.A.R. are very similar to where they are. We are over on the rear set back but only with a one-story garage with a very low slope roof that would not be visible from the neighbors and with landscaping around it should not interfere. We are over on the rear but not as over as other house on the street. We are not over on the side setbacks. I wanted to make the house appear as small from the street as possible by staying in those side setbacks. Every house on that side of the street is over on their side setbacks. Our building envelope is 60ft wide and we are at 60ft wide. Houses on either side are up to 97, 80 feet wide.

**Board Questions and Comments:**

Zabaski, I don't know of any example of the board violating the F.A.R.

Patterson, I don't think we have any because it is relatively new compared to this neighborhood in particular. Almost every new house on this street is over that would put them over on their F.A.R.

Zabaski, didn't the F.A.R come about because of the City wishing to do away with impact zones which this use to be an impact zone and to make it easier on builders to know what their limitations are without having to come before the board?

Patterson, partially, mostly it was to get rid of the volume. This made it easy across the board for agents, homeowners and architects to understand what square foot would be allowed.

Zabaski, yes and that is what I meant by my second point.

Sloan, the square footage of the lot is only 18,000 square feet and then to have a two-car garage it is tight. It is a pretty modest home for a family. We do not have a separate living room. The dining room and breakfast room have been combined into one. There is a pretty modest master bath. On a lot that size it is quite a challenge to stay within the F.A.R.

Patterson, Staff recommends approval on this one. The width of the envelope for all these houses on this street is 60 feet with the exception of two that are 65 and 61. The width of this house is 60 feet which gives them a side yard of 30 feet on each side. The width of the other houses is considerably over that envelope as is the side and rear setbacks on the other homes. In my opinion a precedent was set.

Zabaski, what you are asking for is 5121 square feet on a 18,000 square feet lot. My understanding is you are allowed 4180 square feet which seems to me like a lot of house on a small lot. Have you tried designing a 4180 square foot house on that lot?

Sloan, we did, the two-car garage really eats up quite a bit of that square footage. There is not that much more we can cut if you look at the floor plan. Every room is sized as small as we can possibly get it to work for our family.

Zabaski, the garage is 648 square feet?

Sloan, it is, just the standard two car garage size, 23x24.

Zabaski, do we have the dimensions on the rooms?

Sloan, the family room is 19x19, the kitchen w/eat in area is 19x17, did you want all of the rooms?

Zabaski, I'm fine with that.

Dale, do we ask for the dimensions be turned in with the plan?

Patterson, not necessarily, the main thing is showing F.A.R. and footprint.

Dughman, the square footage is equal on the first floor and the second floor?

Sloan, the first-floor square footage is 2378 and the second floor is 1737.

Dughman, the first floor that takes up the footprint on the lot is not that big is it?

Sloan, the first floor heated is 2378. It is the garage and the screen porch undercover that count in the footprint, F.A.R. as well.

Tardio, our standard here for a variance is that we have to have some exceptional narrowness, shallowness, or shape of the property at the time of enactment of the regs, exceptional topographical conditions or extraordinary or exceptional situation or condition of the property. Or the strict application of the regulation would result in a peculiar, exceptional practical difficulty or hardship upon the owner of the property. That is the standard we are applying, right?

Patterson, correct

Tardio, tell me what clause are you traveling under when you recommend approval?

Patterson, it is the shallowness of it. All of these lots are about 120 feet wide and they are not very deep. It is almost an unbuildable envelope and that is the way the case is for almost every house on the street. That is why it was written as a variance and I believe that is why a lot of these houses are over in footprint, F.A.R. and their building envelope. This one is inside the envelope on the front and sides.

**Public Comments:**

Charles Barrett, 211 Paddock Lane, we sent a letter to the Building Official last night and we have some concerns. We are worried about the size of the house frankly. Five thousand square feet on such a small lot. It is going to be crammed in, it is going to be much too big, it's going to stick out on the street in a way that is not going to be good for anybody we don't think. The size of the house concerns me, and I think a lot of the neighbors on Paddock Lane. We also really don't want to set a precedent. The houses on Leake and Scotland we start seeing these smaller houses crammed, two houses on a lot. We would rather not see that on our street or near our street.

Dughman, Mr. Barrett can you tell us the size of your house and if it is over square footage?

Barrett, I cannot remember off the top of my head. It might be a little over. We bought it that way. The ins and outs how that got built and the design I am not sure.

Dughman, do you know the width of your house?

Barrett, I do not.

Dughman, do you know how close it is to the back property lines?

Barrett, I do not. It may be 40 feet maybe. The proposed house is 20ft closer to the rear and that is not a lot.

Patterson, 211 Paddock lane the allowable footprint is 2143, the actual footprint is 3450, they are over 1255 square feet. Their envelope is 60 and the width of their house is 87. All of these homes are out of compliance.

Kyle Neal, 211 Leake Avenue, I have a corner that touches the rear of this property. My concern is coming from the perspective of the backyard and the shallowness of this lot. That house is going to be 17 feet off that back line. For my house the back line is roughly 45 feet. I am concerned that it is starting to be okay for us to have backyards that really are not big backyards anymore by the little standards we have at this point with shallow back yards. I would really appreciate you all keeping that in mind when deciding this.

Ed Kelly, 210 Paddock, I am directly diagonal to 213. My issue with the house is from the backyard perspective simply because I have a tear down behind my house on Scotland. I worry is if we can get closer and closer to that property line. I just don't want the new tear downs that are going to happen on Leake and Scotland to be pushing those houses to the very end. It's really the precedent of the next person that is going to tear down on Leake and the next person that is going to tear down on Scotland. We are going to start putting really big houses that are creeping right up on the property line.

Joe Galanter, 215 Paddock Place, how is the F.A.R. calculated on our homes because it was represented that my home and the Barrett home is over on F.A.R. but that did not exist when we applied at that time? We did receive a special tax exemption and got approved but it was not really about footprint at that time. Is there some calculation?

Patterson, footprint has always been 12% of the lot. Each one of these houses that are relatively new fell under that. This was a special impact or a special impact area, so these were looked at differently.

Zabaski, the special impact allowed neighborhoods to encroach closer to the side yards because the lots were small, and it gave the board a lot of authority to ignore the setbacks and allow applicants to build a reasonable size house on a lot. The impact zones were done away with because there was not an easy way to do it. F.A.R. was a result of no more impact zones. The floor area ratio was to control volume and the calculations apply to all lots to prevent too big of a house from being built on a small lot. The formula is consistent.

Joe Galanter, we do have a concern of the driveway being as close as it is to our property. There are some shrubs and other things, I would hope and expect that, a landscape kind of mitigation plan is in place to ensure construction work is not going to harm the trees on the property line.

Stephanie Galanter, 215 Paddock Place, is there a landscape Plan?

Sloan, a lot of the trees will be cleared on the property. Michael Baldwin is the landscape architect, and he is doing the plan and planning to do a lot of screening along that property line. The driveway has to be five feet off the property line, and we are actually over six feet. We will be doing plantings in the back too to screen off Leake Avenue. We will have silk fences to protect the neighbor's trees. We are not over on the front setback, there are other houses on the street that are over on the front setback. We would be willing to move the house forward, if that would be better.

**Board Discussions:**

Zabaski, you can't confuse what we are doing now in Belle Meade with the special impact areas. If we start violating where F.A.R. does not matter on certain lots, it is going to be hard to stop that. The objective is to have the right size houses on these lots and not to over build on these lots. I understand what was said by Mr. Patterson on it being small from front to back but that is more of a setback issue than any other issue. It does not require a 5100 square foot house because of the setback issue. I think on that street 4180 square feet for a house is not a small house. It is a very livable house. I don't see a compelling argument at all for allowing us to violate F.A.R.

Dughman, are other homes on that street over F.A.R.?

Patterson, I am not able to do that. All I have are the footprint numbers. Dale, maintaining some minimum distance between the back of one home and the back of another, regardless of setback line, and this situation, would be wise and something we should look at adopting.

Dughman, if you move the house forward to provide more space in the back, would that effective the design of the house in anyway?

Sloan, not on my end. We would be happy to do that.

Dughman, this area of Belle Meade will never allow two houses on one lot. Based upon the precedent every single one of these houses is in violation of the current standards in some form or fashion. Are we being fair to the applicant by requiring them to do something different?

Zabaski, there are probably 70 or 80% of houses in Belle Meade out of compliance right now. If you use that as a criteria you can throw the zoning code out the window. There has to be a limit on how much of a house can go on a lot and that's the F.A.R. I believe a 4200 ft house is not a small house especially on a 19,000 square foot lot.

Dughman, the other houses on the street are over 4000 square feet.  
Dale, if every house is out of compliance, I don't think that is a reason to continue to exceed being out of compliance.

Dughman, the current standards were not in force at the time all of these other homes were built. It would be substantially unfair to require them to be subject to current standards that were not applicable back then. Could they build on current standards?

Patterson, they would have to go to the MPC and establish a new building envelope.

Tardio, I keep coming back to the standard for a variance and I understand what Mr. Patterson said about the lot and he feels it meets the standard. It looks like this lot is consistent with the lots around it. I'm having trouble getting past whether this meets the variance standard.

Dughman, in the variance size is what we are talking about.

Clifford, I would like to further explore the concept of an unbuildable lot as a variance because it seems to me having an unbuildable footprint would be a hardship on a homeowner that would in fact, come on to the board to determine what to do about that. It seems to me that is a logical reason for a variance. We have two issues, the size variance and the other is the location variance.

Dughman, the property to the left is 12 feet, not 17 feet and if they move the house forward it would have more space in the rear. Secondly, the square footage on the first floor is 2378 with the addition of the second floor is what creates the large number but not the appearance of a large house because she has built the house in the building envelope which is not true of the other homes. Making the house wider would not solve the problem.

Clifford, it would also create a front facing garage which you do not want.

Dale, I agree with that.

**Motion to approve the plans as submitted as long as she agrees to move the house forward. I find that the variance requirement has been met because of the size of the lot: Dughman Second: Clifford Vote: 3 yes, 2 opposed**

Joe Dughman, does everyone consent to me rescinding my motion?

The Board unanimously said yes.

Applicant to consider moving the house forward.

**Motion to defer this for thirty days: Dughman Second: Dale  
Vote: All aye**

#### **New Business:**

1. The application of Truit Ellis (20112) 4421 Shepard Place, for a conditional use permitting the construction of a pool and spa. The building permit has been denied for the following reason.

A. Swimming pools and spas require BZA approval.

Staff recommends approval.

**Presentation:** Gail with Siteworks LLC Nashville, I will be presenting the appeal for Mr. Truit and Mrs. Kerry Ellis. The pool dimensions are 18 by 36, the spa dimensions are seven by seven and a half feet. Building Envelope width at 100 feet. Rear set back is 60 feet. We have 40 feet to the East from the property line and 60 feet from the West. Majority of the pool lands between 585 and 584 grade line so there will be minimal changes to the grade. The limits of our excavation for this pool and spa would be well outside the drip lines of the existing trees in place. We will also consult our certified arborist for any further tree protection. The nearest adjacent neighbor would

be to the East at 103 feet, to the South at 125 feet, and the West at 129 feet. They have an existing fence with some mature vegetation on the property lines.

**Board Discussion:**

**Motion to approve the application as submitted:** Dale      **Second:** Clifford  
**Vote:** All aye

2. The application of Jack Wallace (20112) 110 Westhampton Place, for a conditional use permitting the construction of an accessory structure. The permit has been denied for the following reason.

A. Accessory structures require BZA approval. Staff approves.

**Presentation:** Charlie Rankin, I am the architect on the project. Application is to construct an accessory structure to the rear of an existing house. The proposed structure is replacing an existing structure that is there currently. It is within our setbacks, well within the accessory area allowance, within footprint and F.A.R. The request is due to the accessory structure nature of the building.

Jack Wallace, the existing structure is an old garage built in the 1920's.

**Board Questions and Comments:**

**Motion to approve the application as submitted:** Dale      **Second:** Clifford  
**Vote:** All aye

3. The application of Everett Kelley Jr. (20113) 210 Paddock Lane, for a conditional use permitting the construction of a pergola. The building permit has been denied for the following reasons.

A. Pergolas require BZA approval.

B. Pergola is over allowed square feet.

**Presentation:** Everette Kelley Jr., owner of 210 Paddock Lane, I have worked for a while to get a screened in porch for the house. I have concluded that will not work. I have found that I can do a 250 square foot pergola. I currently have a 456 square feet deck. I would like to extend my pergola from 250 feet to 343 feet which is a variance of 93 square feet. The back of the house to the property line is 46.4 feet. The end of the brick deck where the pergola would be to the property line is 26 feet. It is basically a 2-foot width difference and 4-foot length difference in the structure size. The pergola is attached to the house, but it would extend out 15 feet. The 343 one that I am asking for would extend out 19 feet. There is a covered brick deck that is already there. I am just covering the brick deck. I am not going into the grass. I am not going anywhere outside of the existing hardscape.

**Board Questions and Comments**

Dale, there are several letters of support from neighbors in our file.

Zabaski, is this to be included in the F.A.R.? Does that roof close and open?

Kelley, yes it has the ability to close and open.

Patterson, this is not going to be F.A.R. it will be considered footprint. Because it closes it is also considered hardscape.

Kelly, it is only 13 feet tall. None of my neighbors can see it on either side and are in support of it.

## Board Discussions

Motion to approve the application as submitted: Dale Second: Dughman  
Vote: All aye

4. The application of Seth Yazdian (20114) 4406 Honeywood drive, for a variance for house over allowed height and conditional use permitting the construction of a swimming pool. The building permit has been denied for the following reasons.

A. Home is over allowed height in rear.

B. Swimming pools require BZA approval.

Staff recommends approval.

**Presentation:** Dana Baker, I am the architect representing Tal and Seth Yazdian, with the hardship of the linear property that we have, we are over on the building envelope. We have an H type floor plan, breaking down the scale as much as we can. The main floor plan and the upper floor plan have flat roofs that allow us to be underneath the 25 feet height setbacks up to the 80-foot rear setback allowable. Because of the depth of the property, we are seeking a maximum ridge height of seven-and-a-half-foot variance. The majority of the house is still underneath the allowable height that we have on more than four and a half feet. We have reduced the plate height on the second floor to five and a half feet, bringing that ridge down as low as possible and still create on the second floor use of those bedrooms. We are seeking a small variance on the bedrooms and a small part of the roof to the rear. The visible structure that this house impacts is on Ellendale. This neighbor submitted a letter and are comfortable with the small variance requested.

Mr. Haynes, 4411 Honeywood, we are on the downhill side of this property. I have several considerations. One is the height in terms of how this structure will look relative to the other houses on Honeywood. The other is given the larger size of this house, the increased stormwater drainage that comes off of that property. Our concern would be to regrade the ditch, possibly widen it to accept increase from stormwater and to replace the culvert to accept that water.

Lyle Patterson, every new home that is built has to submit a stormwater plan, it will go through at least two reviews. That plan is submitted to our City engineer and will not be approved until the conditions are met to retain the first one inch of rainfall on this property. Your letter has been added to a stormwater file for this address with your concerns and those concerns will be brought up by our engineer as far as water running down the driveway. The current height is 40 foot which they are allowed to go to. I think the architect and the owner have been very respectful of this lot being above street level. They are at a current height of thirty five and a half. They are five feet lower than the allowable.

## Board Questions and Comments:

Zabaski, why do you need that additional height?

Baker, the additional height allows a little bit of volume in a bedroom. It is five feet six inches until where the roof slopes. There is not a lot of options to still have usable space.

Zabaski, that is not just an architectural feature it is actually for function in the room?

Baker, yes, every part of the second floor has a clip and a dormer so it's a story and a half above most grade except for the aggressive sloping part of the property on the North West side where the existing garage is.

**Board Discussion:**

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

All in favor of rescinding the motion: Vote: all aye

Dana baker, in addition to seeing approval of the variance we are seeking permission for the pool. The pool is to the rear of the property. It is only visible potentially by the one neighbor that did send their approval. The pool is within the envelope. It is not raised it is with the existing grade. The pool is 14 ½ x 27 feet. There are four foot by ten foot sequence of steps to get down to the pool. These are pushed all the way against the structure of the house. Again, to keep it within the building envelope and setbacks. Dughman, where is the pool equipment?

Baker, it is within the building envelope. The landscape architect will help us with that. It will most likely be on the North East side.

**Board Discussions:**

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

5. The application of Marvin Morris (20015) 717 Westview avenue for a conditional use permitting the construction of a swimming pool, a special exception for a fence and a variance/conditional use for a spa. The building permit has been denied for the following reasons.

- A. Home is over allowed height in rear.
- B. swimming pools require BZA approval.

**Presentation:** Gavin Duke with Page Duke Architects, we have an irregular shaped lot. We are trying to get the maximum room for the rear yard and fence to the North. There is a garage area, and we are trying to maximize the potential for safety and just increase the backyard. The pool cabana and the pool are within the building envelope. The spa we are trying to make part of the pool deck and try to make that part of the living area. The fence comes off of the master bedroom. It continues over the property line all the way to the West side and back to the front. We are within our square footages. All of our numbers are well under on our hardscape and pool area. We have a landscaping plan. We plan to screen on all the edges for the neighbors.

**Board Questions and Comments:**

Zabaski, Mr. Patterson why don't you recommend approval of the spa.

Patterson, it is outside the building envelope.

Zabaski, you agree this lot qualifies as a variance?

Patterson, I do not. This lot is big, and I feel like they can get it in that envelope.

Duke, we were trying to stay within that compound. We have an outdoor covered area and a formal living area. It was getting a bit tight. Behind the house we graded up the slop. We did not have a lot of flat space in the back. It did not make for a good area for a spa and be part of the family living area.



Zabaski, as far as the fence and the gate what is a compelling argument for putting it in the back of the house?

Duke, it provided a little more privacy for the back. We had a grading issue on the upper side also. We did not exceed the three foot wall, but we had to stay five feet off of the property line in order to grade that out.

Dughman, why can't you put the spa to the North of the cabana?

Duke, we could look at that. The pool is centered off the formal living area. The outdoor living area points out to the pool. It is the nature of the aesthetics.

Dughman, what is the length of the pool?

Duke, twelve by thirty two.

Dughman, you can shorten the pool and put the spa between the cabanas.

Duke, we can definitely look at some of these other options.

**Board Discussions:**

Dale, the rules for a spa and the rules for a pool are the same?

Dughman, they both have to be in the building envelope.

Berry, I think you should take all three items up separately.

Zabaski, if the board recognizes that lot as qualifying for a variance then the board can approve that spot.

Berry, that is correct.

Dughman, I don't agree with that. I don't see the irregularity of that lot.

**Motion to approve A and B: Tardio      Second: Dale      Vote: All aye**

**Motion to not grant the variance on C: Tardio      Second: Dale**

**Vote: all deny**

Tardio, although it may not be explicit in the ordinance, I think you have got to make some connection between the shape and a lot being irregular. That is what is causing the need for a variance. I don't think that connection is here.

6. The application of Tom Chapman (20116) 300 Jackson Boulevard, for a variance permitting the construction of an addition outside the building envelope that is over the height allowance. The building permit has been denied for the following reasons.

A. Addition is outside the building rear setback due to topography.

B. House addition is over the allowed height in rear.

Staff approves.

**Presentation:** Betsy Poe, I am the architect for the Chapmans. This is a shallow lot. Most of the houses on the street are a lot deeper. It pushed the house far back to the property line. There is a lot of elevation change on this house to the right and to the left. That is probably why the house was positioned the way it was. We are putting the new addition on the left side. The addition did fall outside of the rear setback. The other part of the variance is the height restriction and because the elevation changes, from the right to the left, it drops thirteen and a half feet. That puts that natural grade line eight and a half feet below our SSE. We are just a little over that on the new addition. They are also thinking of doing a pop out shed off the existing roof line off the back. That would put it three and a half feet above that average twenty five foot requirement.

**Board Questions and Comments:**

Dughman, explain to us why you need to go outside the building envelope in the rear?

Poe, because the land drops so quickly we are limited to keeping it more narrow to the left and we also need to get the driveway in there. I am keeping the addition as narrow as possible that did push it to the back a little.

Dughman, Mr. Patterson why do you recommend approval on this?

Patterson, the topography drops severely to the left. They are trying to keep it some what level with the existing home. They are outside the building envelope but within the existing setback of that garage. They are not encroaching on the neighbor any closer than what is already there. The existing structure is skewed heavily to the right because of the topography.

**Board Discussions:**

Dale, it makes sense to me.

**Motion to approve as submitted:** Dale                      **Second:** Clifford  
**Vote:** 4- yes, 1 - opposed

7. The application of Damon Drake (20117) 212 Lynwood Terrace, for a conditional use permitting the construction of a swimming pool. The building permit has been denied for the following reason.

A. A swimming pool requires BZA approval.

**Presentation:** Matt Hardy with Siteworks LLC, the homeowners have retained Dale and Associates to provide a survey which was completed in September of 2020. Our front setback is 102 feet, rear is 60. The side nearest houses is a little over 29, and the far side is 43. Our pool falls within the building setback.

**Board Questions and Comments:**

Dughman, where is the pool equipment?

Hardy, it is in the building envelope right against an existing wall.

**Motion to approve as submitted:** Zabaski                      **Second:** Tardio                      **Vote:** All aye

8. The application of Bear Branch Revocable Trust (20118) 4524 Millrace Lane, for a conditional use permitting the construction of a pool, a variance for overage in allowed grade change and a variance for partial pool/fountain outside setback. The building permit has been denied for the following reasons.

A. Swimming pool require BZA approval.

B. Grade is over allowance.

C. Pool/Fountain is over rear building setback.

**Presentation:** Ron Farris with Farris Concepts in Architecture and Wade Rick landscape architect, there were seven lots created numerous years ago and lot seven has remained undeveloped. Since then, several clients have tried to build on this piece of property. I personally have been involved with two others who opted not to build on the property due to its hardship and difficulty. Lot 7 is irregular and awkwardly shaped. It suffers from topographic hardship. It slopes within the building envelope approximately 20 feet. It slopes further if you go property line to property line. It also has a third component to it, which is the 474 flood level topography line that narrows the allowable building envelope from left to right if you face the front of the house. Its building envelope is argued as being irregular and

small compared to the other six properties that are more regular in shape. It was presented in front of the MPC to grant relief of a rear set back and they agreed. They agreed unanimously to give a 40 foot rear setback in lieu of a 60 foot rear setback. The lot is approximately 40,000 square feet. It allows for a footprint of about 4800 square feet. The argument that was made by the MPC was to allow a building envelope that would accommodate a home of similar size and scale to other lots of this size.

Wade Rick, the severity of the topography has caused the need for us to exceed some of the allowable percentages and cut, and fill, ratios to get this house inside of the building envelope as well as remain outside of the floodplain that is to the North. The most severe grade change is inside the building envelope that we are proposing to change the grade more than the allowable 48 inches. By the driveway there is a grade change that exceeds more than 24 inches within 20 feet of the property line. This particular area is to allow us to get the driveway into this particular property keeping the garage on the high side. There is also an easement along that property line, precluding us from building a retaining wall. There is a swimming pool in the back. There are some steps on either side of the pool that would allow for a lower terrace. The portion of the water feature is outside the building envelope and is less than eighteen inches deep of water. Could be found as a fountain as the zoning code reads. There is a terrace at the main house level. Underneath that terrace will be the pool equipment. To the rear of the property is Sugartree. It is our desire to heavily screen along the back property line. The remainder of the property would be left in the natural vegetation that is currently there.

**Board Questions and Comments:**

Patterson, is the level of the fountain lower than the level of the pool?  
Rick, yes

Patterson, staff recommends approval of that.

Farris, stormwater has not been raised but we have pre engaged a stormwater engineer who has been working in parallel with our design and has performed advanced calculation. He has assured us that we will be in compliance with the stormwater review process. We were diligent to remain outside the floodplain on this site. Our stormwater engineer encouraged us to leave the floodplain virgin, don't touch it. Thus, ensuring minimal impact of any stormwater studies. This project has been before the HZC and passed on first submission.

Dughman, Mr. Patterson will you explain why you approve?

Patterson, I originally thought the pool submitted was an infinity pool. It is not. The fountain is lower than the elevation of the water of the pool. The fountain feature is 18 inches or less and it can be inside or outside the building envelope.

**Public Comments**

Moore Rhett, 4516 Millrace Lane, I have a problem with the whole notion of a hardship. One buys a lot with known features, and there is no surprise here to a purchaser what the challenges are only relative to magnitude of house that can sit on it. To the extent that you increase that magnitude, you impose a greater degree of difficulty and a greater degree of hardship on yourself. That is not necessarily a hardship that should be brought to you in my estimation. Can someone please explain what the approval request over permitted grade is in the various colors.

(Wade Rick went through the displayed map and color changes)

Patterson, before we had the grade change ordinance in place, the standard was 21 inches. There were other houses on the street that far exceeded that.

These lots are very challenging. Ron and Wade have kept this out of the floodplain. I think they are being very mindful staying out of the floodplain that could be a problem removing a lot of dirt around and changing the elevation. Yes, they are over their allowable. This is a very, very challenging lot as you can see from the topo lines. It is going to be an attractive front yard. I would rather see a grade change to the left of this home instead of a sharp drop off where you see a tremendous amount of foundation wall. This is why I approved this grade change plan.

Zabaski, is all this grade change cut, any of it fill?

Aaron Wiseman, I am working with Rick Wade on the project, yes, the majority of the activity is fill. There is currently a jet out and then it drops off. That is the only place that we are proposing to cut. The rest is slowly filling to allow more flat area before we allow it to drop off smoothly where it is currently very steep.

Rhett, I question the magnitude of overage in grading that's needed and view it really as a tub and then coming in and filling all that in.

Patterson, this is the best layout I have seen for this property and the least impact.

Rick, the wall is actually encapsulated along the swimming pool and into the house. The foundation wall is holding up the swimming pool.

Zabaski, how tall are the foundation walls?

Farris, at the edge of the steps that come down from the pool it is seven feet. The corner is the highest at just over twelve feet.

#### **Board Discussions:**

Motion to approve the application as submitted: Dale      Second: Clifford  
Vote: All aye

Meeting adjourned at 8:04pm

---

Chairman Joe Dughman

---

City Recorder, Edie Glaser